



NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

DISSERTATION

**OUTSOURCING HUMAN SECURITY: THE PROS AND
CONS OF PRIVATE SECURITY COMPANIES IN
PEACEKEEPING**

by

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March 2013

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REPORT DOCUMENTATION PAGE			<i>Form Approved OMB No. 0704-0188</i>	
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington DC 20503.				
1. AGENCY USE ONLY (Leave blank)		2. REPORT DATE March 2013	3. REPORT TYPE AND DATES COVERED Dissertation	
4. TITLE AND SUBTITLE: OUTSOURCING HUMAN SECURITY: THE PROS AND CONS OF PRIVATE SECURITY COMPANIES IN PEACEKEEPING			5. FUNDING NUMBERS	
6. AUTHOR(S): Daniel G. Straub			8. PERFORMING ORGANIZATION REPORT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Naval Postgraduate School Monterey, CA 93943-5000			10. SPONSORING / MONITORING AGENCY REPORT NUMBER	
9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES) N/A				
11. SUPPLEMENTARY NOTES The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government. IRB Protocol number <u>NPS.2012.0004-IR-EP7-A</u> .				
12a. DISTRIBUTION / AVAILABILITY STATEMENT Approved for public release; distribution is unlimited			12b. DISTRIBUTION CODE	
13. ABSTRACT (maximum 200 words) The United Nations is an international organization that acts in world affairs with the proclaimed aim of ending "the scourge of war" and promoting world peace. The UN often uses peacekeeping to further this goal. This dissertation considers the potential for private security companies (PSCs) to make a contribution to peacekeeping missions. PSCs claim to offer a flexible capability that can be used to assist organizations and states toward improvements in human security. PSCs offer services ranging in scope from protecting diplomats to providing security for major corporations, NGOs, and the UN. They also claim that their services can be performed better, cheaper, and faster than states or organizations like the UN. For example, supporters of PSCs claim that they could have prevented atrocities such as occurred in Rwanda, Srebrenica, and Congo. Opponents of the increased use of PSCs raise a host of concerns, including cost, morality, legitimacy, loyalty, fraud, accountability, and political will. In an era when states often lack critical capabilities to protect the peace or prevent war, PSCs may offer a temporary solution to fill these gaps. What are the advantages and disadvantages to the use of PSCs for international peacekeeping? The analysis in this dissertation focuses on the ability of PSCs to perform not just specific tasks, but on their ability to conduct of peacekeeping with legitimacy, accountability, and impartiality, while protecting human security. Since ending the scourge of war is the most important goal of the UN, then human security must be the guiding principle upon which all structures of integration, communication, and interrelationships in peacekeeping are based. Using the concept of human security as a guiding principle, this dissertation evaluates the pros and cons of the use of PSCs in peacekeeping and finds that PSCs should be used in peacekeeping operations as a hybridized force where their demonstrated strengths, generally speed and flexibility, are used to maximize effectiveness of instituting UN Security Council-mandated peacekeeping.				
14. SUBJECT TERMS Private Security Company Private Military Company Private Military and Security Company Military Service Provider Armed Security Company Armed Humanitarians Peacekeeper Peacekeeping Operations United Nations Peacekeeping Sierra Leone Bosnia Angola Responsibility to Protect R2P Pros and Cons Human Security Mercenary Mercenaries United Nations Protection of Civilians				15. NUMBER OF PAGES 393
				16. PRICE CODE
17. SECURITY CLASSIFICATION OF REPORT Unclassified	18. SECURITY CLASSIFICATION OF THIS PAGE Unclassified	19. SECURITY CLASSIFICATION OF ABSTRACT Unclassified	20. LIMITATION OF ABSTRACT UU	

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SECURITY COMPANIES IN PEACEKEEPING**

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DOCTOR OF PHILOSOPHY IN SECURITY STUDIES

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ABSTRACT

The United Nations is an international organization that acts in world affairs with the proclaimed aim of ending “the scourge of war” and promoting world peace. The UN often uses peacekeeping to further this goal. This dissertation considers the potential for private security companies (PSCs) to make a contribution to peacekeeping missions. PSCs claim to offer a flexible capability that can be used to assist organizations and states toward improvements in human security. PSCs offer services ranging in scope from protecting diplomats to providing security for major corporations, NGOs, and the UN. They also claim that their services can be performed better, cheaper, and faster than states or organizations like the UN. For example, supporters of PSCs claim that they could have prevented atrocities such as occurred in Rwanda, Srebrenica, and Congo. Opponents of the increased use of PSCs raise a host of concerns, including cost, morality, legitimacy, loyalty, fraud, accountability, and political will. In an era when states often lack critical capabilities to protect the peace or prevent war, PSCs may offer a temporary solution to fill these gaps. What are the advantages and disadvantages to the use of PSCs for international peacekeeping? The analysis in this dissertation focuses on the ability of PSCs to perform not just specific tasks, but on their ability to conduct of peacekeeping with legitimacy, accountability, and impartiality, while protecting human security. Since ending the scourge of war is the most important goal of the UN, then human security must be the guiding principle upon which all structures of integration, communication, and interrelationships in peacekeeping are based. Using the concept of human security as a guiding principle, this dissertation evaluates the pros and cons of the use of PSCs in peacekeeping and finds that PSCs should be used in peacekeeping operations as a hybridized force where their demonstrated strengths, generally speed and flexibility, are used to maximize effectiveness of instituting UN Security Council-mandated peacekeeping.

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TABLE OF CONTENTS

I.	INTRODUCTION.....	1
A.	SIGNIFICANCE OF DISSERTATION	9
B.	METHODOLOGY	16
C.	DISSERTATION OVERVIEW.....	21
D.	RESEARCH GOAL	23
II.	KEY CONCEPTS FOR ANALYSIS	27
A.	THE UNITED NATIONS, PEACEKEEPING, AND PRIVATE SECURITY COMPANIES	27
1.	Peacekeeping	27
2.	Private Security Companies.....	36
B.	TYPOLOGIES	44
1.	Peacekeeping, Peacemaking, Peace Building, and Peace Enforcement	44
2.	Private Security Companies: Scope and Roles.....	49
3.	Who Else Does Peacekeeping?	51
a.	<i>Regional Organizations and States</i>	51
b.	<i>Choosing the Peacekeepers</i>	54
C.	CURRENT PEACEKEEPING: UNITED NATIONS, REGIONAL ORGANIZATIONS, AND STATES	59
D.	PEACEKEEPING CONDITIONS FOR SUCCESS	61
1.	Conditions for Success.....	61
2.	Conditions for Failure	66
3.	Conclusion	69
III.	LITERATURE REVIEW: ELEMENTS OF THE DEBATE	73
A.	PEACEKEEPING AND PSCS	73
Conclusion		79
B.	SUMMARY OF PROS AND CONS	79
1.	PSCs (Advantages).....	80
2.	PSCs (Disadvantages)	81
3.	PSCs as an Existing Market.....	88
4.	Privatization versus Outsourcing	90
5.	Mercenaries	92
6.	Contracts.....	98
C.	LITERATURE REVIEW CONCLUSION	99
IV.	HUMAN SECURITY AND HUMAN RIGHTS.....	101
A.	HUMAN SECURITY	103
1.	Security, Human Security, and the Debate	111
2.	The Broad View.....	117
3.	The Narrow View	119
B.	PROTECTION OF HUMAN RIGHTS	121

1.	UN Peacekeepers, Regional Peacekeepers, Human Rights, and Sexual Exploitation and Abuse	121
2.	PSCs, Human Security, and Human Rights	129
V.	WEIGHING THE PROS AND CONS: DATA AND RESEARCH	133
A.	PRIVATE SECURITY COMPANIES VERSUS PEACEKEEPERS	133
1.	Costs	133
a.	<i>Peacekeeper Costs</i>	137
b.	<i>Private Security Costs</i>	142
2.	Documented Abuses, Fraud, and Criminal Activity.....	150
a.	<i>Private Security Companies</i>	150
b.	<i>Peacekeepers</i>	155
B.	CONTRASTS AND COMPARISONS	157
C.	UN CHARTER CHAPTERS VI & VII AND PRIVATE SECURITY COMPANIES	164
D.	COST.....	165
E.	LEGITIMACY	167
F.	CHAPTER CONCLUSION.....	175
VI.	CASE STUDIES—PLAUSIBILITY PROBE	177
A.	ANGOLA	179
1.	Historical Summary	179
2.	Role of PSCs	186
3.	Role of International Peacekeepers.....	186
4.	Use of PSC Pros and Cons.....	187
a.	<i>Adherence to Contracts</i>	188
b.	<i>Cost</i>	190
c.	<i>Legitimacy</i>	193
d.	<i>Human Security and Human Rights</i>	195
e.	<i>Effectiveness</i>	197
f.	<i>Speed and Flexibility</i>	198
g.	<i>Public Relations</i>	199
5.	Summary of Case and Conclusion.....	202
B.	SIERRA LEONE	203
1.	Historical Summary	203
2.	Role of PSCs	214
3.	Role of International Peacekeepers.....	221
4.	Use of PSC Pros and Cons.....	224
a.	<i>Adherence to Contracts</i>	226
b.	<i>Cost</i>	227
c.	<i>Legitimacy</i>	231
d.	<i>Human Security and Human Rights</i>	234
e.	<i>Effectiveness</i>	237
f.	<i>Speed and Flexibility</i>	240
g.	<i>Public Relations</i>	242
5.	Summary of Case and Conclusion.....	244
C.	BOSNIA-HERZEGOVINA	248

1.	Historical Summary.....	249
2.	Role of PSCs	254
3.	Role of International Peacekeepers.....	255
4.	Use of PSC Pros and Cons.....	256
a.	<i>Adherence to Contracts</i>	256
b.	<i>Cost</i>	259
c.	<i>Legitimacy</i>	263
d.	<i>Human Security and Human Rights</i>	264
e.	<i>Effectiveness</i>	267
f.	<i>Speed and Flexibility</i>	268
g.	<i>Public Relations</i>	270
5.	Summary of Case and Conclusion.....	271
VII.	ANALYSIS OF THEMES.....	275
A.	COMPARISON OF ARGUMENTS FOR AND AGAINST THE USE OF PRIVATE SECURITY COMPANIES FOR PEACEKEEPING	275
1.	Pros and Cons: Arguments For and Against the Use of Private Security Companies for Peacekeeping.....	275
a.	<i>Adherence to Contracts/Intervention</i>	278
b.	<i>Cost/Outsourcing</i>	283
c.	<i>Effectiveness/Speed and Flexibility</i>	293
d.	<i>Accountability</i>	297
e.	<i>Legitimacy</i>	309
f.	<i>Human Security/Human Rights</i>	313
2.	Conclusion	317
VIII.	RESEARCH LIMITATIONS, FUTURE RESEARCH OPPORTUNITIES, POLICY APPLICATION, AND CONCLUSION	319
A.	RESEARCH LIMITATIONS.....	319
B.	FUTURE RESEARCH: CHALLENGES AND OPPORTUNITIES	321
C.	POLICY APPLICATION, OPTIONS, AND CONCLUSION	322
	APPENDIX. LIST OF INTERVIEWS	331
	LIST OF REFERENCES.....	333
	INITIAL DISTRIBUTION LIST	367

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LIST OF FIGURES

Figure 1.	Defining the Private Security Sector.....	40
Figure 2.	Spectrum of Sandline Services	41
Figure 3.	Criteria for Successful Peacekeeping.....	65
Figure 4.	Decision Tree Regarding Performance of Functions of UN Personnel, Peacekeepers, or Others	162

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LIST OF TABLES

Table 1.	Bellamy & Williams: Traditional Peacekeeping and Peacekeeping Activities	30
Table 2.	Categories of Peacekeeper Misconduct and Sexual Exploitation and Abuse	128
Table 3.	UN Contributors: Money or Troops (“Payers” and “Players”)	141
Table 4.	DoS vs. PSC Cost Comparison.....	146
Table 5.	Presence of Contractor Personnel during U.S. Military Operations	152
Table 6.	Peacekeeping Tasks	160
Table 7.	Pros and Cons of PSC use in Angola.....	187
Table 8.	Angola Peacekeeping Costs	192
Table 9.	Pros and Cons of PSC use in Sierra Leone	225
Table 10.	Sierra Leone Peacekeeping Costs	231
Table 11.	Pros and Cons of PSC use in Bosnia-Herzegovina.....	255
Table 12.	Bosnia-Herzegovina Peacekeeping Costs	261
Table 13.	Contractor Accountability: List of International Treaties and Laws, U.S. Statutes, and U.S. Regulations/Policy Statements.....	301

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LIST OF ACRONYMS AND ABBREVIATIONS

ACRI	African Crisis Response Initiative	CID	Criminal Investigative Division (Actual title is Criminal Investigative Command (USACIC), but many still refer to the post-WWII acronym.)
ACOTA	African Contingency Operations Training and Assistance		
ANC	African National Congress	CBO	Congressional Budget Office
APPF	Afghan Private Protection Force	CDF	Civil Defense Forces
ARBiH	Army of the Republic of Bosnia and Herzegovina	CIVPOL	Civilian Police Division of a United Nations peacekeeping operation
ARRF	Allied Rapid Reaction Force	COR	Contracting Officer Representative
ASEAN	Association of Southeast Asian Nations	C/PC	Conflict/Post-Conflict
ATS	Alien Tort Statute (also called the Alien Tort Claims Act (ATCA))	CSCE	Commission on Security and Cooperation in Europe
AU	African Union	CWC	Commission on Wartime Contracting
BAPSC	British Association of Private Security Companies	DBA	Defense Base Act
BiH	Bosnia and Herzegovina	DDR/DDRR	Disarmament, Demobilization, and Reintegration/Rehabilitation
C2	Command and Control		
CARTS	Croatian Army Readiness Training Program	DCAF	Democratic Control of the Armed Forces
CIA	Central Intelligence Agency	DFARS	Defense Federal Acquisitions Regulations System
		DoD	Department of Defense

DoJ	Department of Justice	FAIR	Federal Activities Inventory Reform Act
DoS	Department of State		
DPA	Dayton Peace Accords	FCO	Foreign and Commonwealth Office
DPA	UN Department of Political Affairs	FDI	Foreign Direct Investment
DPKO	UN Department of Peacekeeping Operations	FMF	Foreign Military Financing
DRC	Democratic Republic of the Congo	FMS	Foreign Military Sales
DTAP	Democratic Transition Assistance Program	FPS	Federal Protective Service
EC	European Community	FYROM	Former Yugoslav Republic of Macedonia
ECHA	UN Executive Committee on Humanitarian Affairs	GAO	Government Accountability Office
ECOMOG	Economic Community of West African States Cease-fire Monitoring Group	GoSL	Government of Sierra Leone
ECOWAS	Economic Community of West African States	GPOI	Global Peace Operations Initiative
ECPS	UN Executive Committee on Peace and Security	GSA	General Services Administration
E-MINE	Electronic Mine Information Network	GSG	Ghurka Security Guards
EO	Executive Outcomes	HA/DR	Humanitarian Assistance/Disaster Relief
EU	European Union	HDZ	Croatian Democratic Community
FAA	Forças Armadas Angolanas (Angolan Armed Forces)	HOS	Croatian Defense Forces
		HV	Croatian Armed Forces
FARS	Federal Acquisition Regulation System	HVO	Croatian Defense Council

ICRC	International Committee of the Red Cross	IOM	International Organization for Migration
ICC	International Criminal Court	IPA	International Peace Academy
ICG	International Crisis Group	IPI	International Peace Institute
ICoC	International Code of Conduct (for security service providers)	IPOA	International Peace Operations Association
ICRC	International Committee of the Red Cross	IPTF	International Police Task Force
ICTY	International Criminal Tribunal for the former Yugoslavia	ISOA	International Stability Operations Association (previously IPOA)
IDP	Internally Displaced Person	ITAR	International Transfer of Arms Regulation
IFOR	Implementation Force	JNA	Yugoslav People's Republic
IHL	International Humanitarian Law	KBR	Kellogg, Brown, and Root
IHRL	International Human Rights Law	LN	Local National
IMATT	British International Military Training Team	LOGCAP	Logistics Civil Augmentation Program
IMET	International Military Education and Training	MAP	Military Assistance Program
IMF	International Monetary Fund	MEJA	Military Extraterritorial Jurisdiction Act
INGO	International Nongovernmental Organization	MEP	Mission Essential Personnel
IO	International Organization	MNC	Multinational Corporation

MOA	Memorandum of Agreement	OCHA	Organization for the Coordination of Humanitarian Affairs
MoD	Ministry of Defense		
MONUC	United Nations Observer Mission in the Democratic Republic of the Congo	OECD	Organization for Economic Cooperation and Development
		OHR	Office of the High Representative
MOU	Memorandum of Understanding	OIOS	(UN) Office of Internal Oversight Services
MNRRR	Ministry of National Reconstruction, Resettlement and Rehabilitation (Sierra Leone)	OMB	Office of Management and Budget
		ONUSAL	United Nations Observer Mission in El Salvador
MPRI	Formerly “Military Professional Resources Inc.,” now officially just “MPRI”	OPM	Office of Personnel Management
		OSCE	Organization for Security and Cooperation in Europe
MSP	Military Service Provider		
MTS	(UN) Misconduct Tracking System	PAE	Pacific Architects and Engineers
NAA	North Atlantic Assembly	PfP	Partnership for Peace
NATO	North Atlantic Treaty Organization	PMC	Private Military Company
NGO	Nongovernmental Organization	PMF	Private Military Firm
		PMSC	Private Military and Security Company
NIS	Newly Independent State		
NPRC	National Provisional Ruling Council (Sierra Leone)	PoC	Protection of Civilians
		POGO	Project On Government Oversight
OAU	Organization of African Unity	PSC	Private Security Company
		PSC	Personal Security Detail

PSCAI	Private Security Company Association of Iraq	SAS	British Special Air Services
PSO	Peace Support Operation	SCS	Southern Cross Security
PSP	Private Security Provider	SDSS	Independent Serbian Democratic Party
R2P	Responsibility to Protect	SEAL	U.S. Navy's Sea Air Land Teams
RO	Regional Organization	SEA	Sexual Exploitation and Abuse
ROE	Rules of Engagement	SFRY	Socialist Federal Republic of Yugoslavia
RPF	Rwandan Patriotic Front	SLA	Sierra Leone Army (AKA RSLMF)
RS	Republika Srpska	SLPP	Sierra Leone People's Party
RSLMF	Republic of Sierra Leone Military Forces (AKA SLA)	SOF	Special Operations Forces
RUF	Revolutionary United Front of Sierra Leone	SOFA	Status of Forces Agreement
RUoF	Rules for the Use of Force	SOP	Standard Operating Procedure
S&D	Suspension and Debarment	SRSG	Special Representative of the Secretary-General
SADC	Southern African Development Community	SSR	Security Sector Reform
SADF	South African Defense Force (pre-apartheid)	SWAPO	South West African People's Organization
SAIC	Science Applications International Corporation	SWAPOL	South West African Police
SADF	South African Defence Force (until 1994)	SWATF	South West African Territorial Force
SANDF	South African National Defence Force (post-apartheid)	TCC	Troop Contributing Country

TCN	Third Country National	UNDSS	United Nations Department of Safety and Security
TNC	Transnational Corporation		
TTP	Tactics, Techniques, and Procedures	UNEF	United Nations Emergency Force (I, II)
UCMJ	Uniform Code of Military Justice	UNESCO	United Nations Educational, Scientific, and Cultural Organization
UK	United Kingdom	UNHCR	United Nations High Commissioner for Refugees
UN	United Nations		
UNAMA	United Nations Mission in Afghanistan	UNICEF	United Nations Children's Fund
UNAMET	United Nations Mission in East Timor	UNITA	National Union for the Total Independence of Angola
UNAMIC	United Nations Advance Mission in Cambodia	UNITAF	Unified Task Force (U.S.)
UNAMIR	United Nations Assistance Mission for Rwanda	UNMEM	United Nations Military Member on Mission
UNAMSIL	United Nations Mission in Sierra Leone	UNMIK	United Nations Interim Administration Mission in Kosovo
UNAVEM	United Nations Angola Verification Mission (I, II, III)	UNMIL	United Nations Mission in Liberia
UNCRO	United Nations Confidence Restoration Operation for Croatia	UNMISSET	United Nations Mission of Support in Timor- Leste
UNDFS	United Nations Department of Field Support	UNOCI	United Nations Operation in Côte d'Ivoire
UNDP	United Nations Development Program	UNOHAC	United Nations Office for Humanitarian Assistance Coordination
		UNOSOM	United Nations Operation in Somalia (I, II)

UNOTIL	United Nations Office in East Timor	UNTAG	United Nations Transition Assistance Group
UNPA	United Nations Protected Area	USAID	United States Agency for International Development
UNPREDEP	United Nations Preventive Deployment Force in Macedonia	USG	United States Government
UNPROFOR	United Nations Protection Force	VRS	Army of Republika Srpska
UNSMIS	United Nations Supervision Mission In Syria	WEU	Western European Union
UNTAC	United Nations Transitional Authority in Cambodia	WFP	World Food Programme
UNTAES	United Nations Transitional Administration in Eastern Slavonia, Baranja, and Western Sirmium	WHO	World Health Organization
		WPPS	Worldwide Personal Protective Services
		YPA	Yugoslavia People's Army
		ZNG	Croatian National Guard
UNTAET	United Nations Transitional Authority in East Timor		

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ACKNOWLEDGEMENTS

Without the support and love of friends and family none of my career would have been possible, which means that I would never have arrived here, at the end of this dissertation, and at the beginning of what it means to have earned a PhD. Additionally, without the inspiration and guidance of my esteemed dissertation committee, I would still be looking for a topic. Each created a spark; each inspired me toward the subject of my dissertation.

Professor Bruneau furthered my interest in Civil-Military relations, which began when the ship I was on at the time arrived on the scene following the tsunami at Banda Aceh in 2004. The myriad nations, IGOs, NGOs, and agencies represented all in an effort to help people amazed me and piqued my interest in the subject.

Professor Clunan helped me understand the legal system underlying much of how nations interact—or do not. She also inspired me to better understand the complex machinations of interdependence, interconnectivity, globalization, and the causes of movement or change within and without those systems.

Professor Dew's work was first introduced to me by Professor Bruneau, and when I began to review his research, I thought that I might just have to come up with a new topic because there were so many similarities to my studies. However, because much of it was germane to what I was researching at the time it helped me a great deal with the contracting and cost comparison pieces, as well as on integration of PSCs into various communities.

Professor Knopf introduced me to the idea of human security, a vast and difficult to define concept that I found utterly fascinating, even though it seemed that no one else did. He also helped me understand shifts in the way the world sees security, and that perspectives on security were important to developing a connection between the fundamental goals of the UN, states, individuals, peacekeeping, and PSCs.

Professor Sotomayor provided the capstone for me, since from him I came to believe that there is no one agency or force, especially an intervening one, that can solve all the unrest and problems throughout the world. Through him I came to believe that the best outcomes grow from integration of all elements, public and private, international and local and that coordination, cooperation, collaboration, and communication are fundamental elements to success in any international operation.

I must also thank my good friends Tom and Heidi for providing me the “cave” in their basement in Newport, RI so that I could focus on writing my dissertation. Many a night and weekend was spent “below decks” writing and editing. To Marilyn, I cannot thank you enough for your friendship, your kindness, your wisdom, and your unwavering support; you have always been there for me, and it will never be forgotten.

Most importantly, I thank my wife and boys for their sacrifices to a long career in the Navy, of which this PhD is a part. The cumulative years spent at sea forced them to take on the duties that, as a husband and a father, I was unable to perform from thousands of miles away at sea. Jan, thank you for supporting me and always being the rudder that has kept us fair in the channel.

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I. INTRODUCTION

The world's peoples will judge us by our ability to perform specific tasks. Not by the resounding speeches we make, or the number of decisions we reach, but by the quality of those decisions, and of the service we provide.

For the sake of all those whom we hope to save—whether from terrorism, from war, from poverty, from disease, or from environmental degradation—let us resolve that only the best is good enough.

And let us equip ourselves so that, in future, the best is what we give.¹

Kofi Annan

The United Nations is an international organization that acts in world affairs with the proclaimed aim of ending “the scourge of war” and promoting world peace. The UN often uses peacekeeping to further this goal. This dissertation considers the potential for Private Security Companies (PSCs) to make a contribution to peacekeeping missions. PSCs claim to offer a flexible capability that can be used to assist organizations and states toward improvements in human security. PSCs offer services ranging in scope from protecting diplomats to providing security for major corporations, non-governmental organizations (NGOs), and the United Nations (UN). They also claim that their services can be performed better, cheaper, and faster than states or organizations like the UN, African Union (AU), or North Atlantic Treaty Organization (NATO). For example, supporters of PSCs claim that they could have prevented atrocities such as the ones that occurred in Rwanda, Srebrenica, and Congo. Opponents of the increased use of PSCs raise a host of concerns, including, cost, morality, legitimacy, loyalty, fraud, accountability, and political will. In an age in which states often lack critical capabilities to protect the peace or prevent war, PSCs may offer a temporary solution to fill these gaps.

¹ Kofi Annan, “The Secretary-General Address to the General Assembly” (New York: United Nations, 10 November 2001).

This study uses human security as a lens for evaluating the use of PSCs. In the so-called narrow definition, human security emphasizes protecting individuals from violence. Human security is a primary concern of the UN, but it is not discussed and rarely considered in the standard literature on the pros and cons of the use of PSCs for peacekeeping. What are the advantages and disadvantages to the use of PSCs for international peacekeeping? The analysis in this dissertation focuses on the ability of PSCs to perform not just for specific tasks, but on their ability to conduct of peacekeeping with legitimacy, accountability, and impartiality, while protecting human security. Since ending the scourge of war is the most fundamental goal of the UN, then human security must be the guiding principle upon which all structures of integration, communication, and interrelationships in peacekeeping are based. Using the concept of human security as a guiding principle, this dissertation evaluates the pros and cons of the use of PSCs in peacekeeping and finds that PSCs should be used in peacekeeping operations as a hybridized force where their demonstrated strengths, generally speed and flexibility, are used to maximize effectiveness of instituting UN Security Council-mandated peacekeeping.

Private Security Companies offer a full range of security services, from personal protection to convoy escorts for the military, from protecting governments from overthrow to protecting UN officials and peacekeepers. PSCs have been employed

globally in diverse capacities.² In recent years their employees have driven trucks to move war materiel and supplies from Kabul to remote fire bases in Afghanistan. They have battled insurgents in Iraq while protecting convoys of U.S. soldiers. They have trained soldiers and police in Bosnia and Kosovo. They have protected firms engaged in resource extraction worldwide. They have ensured the security of NGOs conducting humanitarian aid in conflict-torn environments. They have protected VIPs, dignitaries, and diplomats in conflict zones all over the world.³ And they have protected United Nations personnel. PSCs have conducted every known security mission except for one: UN peacekeeping.⁴

PSCs have lobbied extensively to participate in United Nations peacekeeping operations. They have been hired by the UN for protection of UN personnel, offices,

² “They offer strategic, tactical and technological advice, training expertise and logistic and support services as well as core military combat functions for governments, (transnational) enterprises, international organizations, non-governmental organizations, relief agencies and other non-state actors.” Thomas Jäger and Gerhard Kümmel, *Private Military and Security Companies : Chances, Problems, Pitfalls and Prospects*, 1. Aufl. ed. (Wiesbaden: VS Verlag für Sozialwissenschaften, 2007), 9. See generally Peter W. Singer, *Corporate Warriors : The Rise of the Privatized Military Industry*, Cornell studies in security affairs (Ithaca: Cornell University Press, 2003); Deborah D. Avant, *The Market for Force : The Consequences of Privatizing Security* (Cambridge, UK, New York: Cambridge University Press, 2005); Laura A. Dickinson, *Outsourcing War and Peace : Preserving Public Values in a World of Privatized Foreign Affairs* (New Haven: Yale University Press, 2011); David Isenberg, *Shadow Force : Private Security Contractors in Iraq* (Westport, CT: Praeger Security International, 2009); Molly Dunigan, *Victory for Hire : Private Security Companies’ Impact on Military Effectiveness* (Stanford, Calif.: Stanford Security Studies, 2011); Thomas C. Bruneau, *Patriots for Profit : Contractors and the Military in U.S. National Security* (Stanford, California: Stanford University Press, 2011); Simon Chesterman, Angelina Fisher, and New York University. Institute for International Law and Justice., *Private Security, Public Order : The Outsourcing of Public Services and its Limits* (Oxford; New York: Oxford University Press, 2009).

³ Alexandre Faite, “Involvement of Private Contractors in Armed Conflict: Implications under International Humanitarian Law,” ed. International Committee of the Red Cross (ICRC) (Geneva: ICRC, 2004), 1.

⁴ PSCs have been involved in a wide range of international security activities such as training security forces in Iraq, civilian police in Bosnia and Kosovo, and flying gunships in Sierra Leone, DRC, and Colombia. For an example of some of the tasks PSCs have taken on or the efforts representative of the lobbyists’ arguments, see the collection of essays by Andrew Alexandra, Deane-Peter Baker, and Marina Caparini, *Private military and security companies : ethics, policies and civil-military relations*, Cass military studies (London ; New York: Routledge, 2008), essays 2, 4, 5, 7, 8, 11, and 14. Also, from the president of the International Stability Operations Association (formerly the International Peace Operations Association), Doug Brooks, “Supporting the MONUC Mandate with Private Services in the Democratic Republic of Congo,” in *United Nations Organization Mission in the Democratic Republic of the Congo* (International Peace Operations Association, 2005). Doug Brooks and Xavier Renou, *Peacekeeping or pillage? : private military companies in Africa*, Africa Institute Occasional paper (Pretoria, South Africa: Africa Institute of South Africa, 2001).

equipment, transportation security, support and training. However, to date the UN has not authorized the use of PSCs or PSC personnel as peacekeepers or peace enforcers in peace support operations (PSOs).⁵

The UN has considered using PSCs for peacekeeping, especially when peacekeeping troops have not been available, or the speed of troop contributing countries (TCCs) has not been quick enough to get boots on the ground and stop violence as authorized by the Security Council (SC).⁶ But the UN has not used them for actual peacekeeping. On one side of this issue are those who advocate for their use, arguing that states have already lost the monopoly of violence, so why not hire corporate volunteers on a “contract-fee basis for the United Nations?”⁷ On the other side are those who oppose their use arguing they are irresponsible mercenaries who are difficult to hold accountable for any misdeeds they might commit. PSCs have lobbied to act as peacekeepers for the UN, claiming that had they been used, they could have prevented genocides in places like Rwanda or restored order to places like Somalia.⁸

The arguments for and against PSCs engaged in peacekeeping are many and varied. The two sides of the debate have disputed the efficiency, effectiveness, accountability, legitimacy, morality, transparency, impartiality, and neutrality of PSCs in order to support their stance. What does the evidence tell us about the validity of the pro and con arguments? The goal of this dissertation is to analyze the data so that policymakers can make informed choices about whether or not to employ PSCs and in

⁵ Alex J. Bellamy, Paul Williams, and Stuart Griffin, *Understanding peacekeeping* (Cambridge, UK; Malden, MA: Polity Press; Blackwell Pub., 2004), 209.

⁶ Robert Mandel, *Armies without states : the privatization of security* (Boulder, Colo.: L. Rienner, 2002), 17; Ibid. Annan has stated that, “Without the use of private forces, the United Nations still lacks the capacity to implement rapidly and effectively decisions of the Security Council calling for the dispatch of peacekeeping operations in crisis situations.” Although Annan also added that the world may not be ready for privatized peace.

⁷ Alvin and Toffler, *War and anti-war : survival at the dawn of the 21st century*, 1st ed. (Boston: Little, Brown, 1993), 273. Cited in Mandel, *Armies without states : the privatization of security*: 16.

⁸ Singer, *Corporate Warriors*: 182–87; Ibid. Toffler and Toffler. See also Tim Spicer, *An unorthodox soldier : peace and war and the Sandline affair : an autobiography* (Edinburgh: Mainstream, 1999); Doug Brooks, “Write a Cheque End a War Using Private Military Companies to End African Conflicts,” *Conflict Trends* 6, no. July (2000).

what circumstances their use may be appropriate, and possibly more importantly, when their use is not appropriate. As human security, protection of civilians (PoC), prevention of responsibility to protect (R2P) atrocities, and ending the “scourge of war” are the stated aims of the UN, every potential asset or resource should be carefully reviewed in order to accomplish these goals. This dissertation starts from the premise that **human security** is the fundamental element by which PSCs must be measured for their use in UN peacekeeping operations.⁹ After an analysis of the pros and cons of their use, this dissertation finds that PSCs should be used as a part of a hybrid mix of organizational responses in peacekeeping under a UN mandate.

The use of PSCs to conduct peacekeeping is not a new idea. The UN has considered it on numerous occasions.¹⁰ In fact, “...even former UN Secretary-General Kofi Annan has admitted that, without the use of private forces, the United Nations ‘still lacks the capacity to implement rapidly and effectively decisions of the Security Council calling for the dispatch of peacekeeping operations in crisis situations.’”¹¹ Use of PSCs was also considered in the midst of the Rwanda genocide, but “member states were horrified by the idea.”¹² There is a common theme among those supporting the use of PSCs for peacekeeping that the genocide in Rwanda or the ongoing mass atrocities in Congo could have been prevented or stopped, saving millions of lives.¹³

The UN has, in fact, hired PSCs to protect their own personnel from violence in the midst of peacekeeping operations on numerous occasions.¹⁴ For instance, just months after the Lomé Peace accords between the Revolutionary United Front [of Sierra Leone] (RUF) and the government of Sierra Leone (GoSL), the RUF resumed their violent attacks on citizens, public officials, aid workers, and peacekeepers. For their own

⁹ Each pro and con must also be evaluated using the measure of human security.

¹⁰ Mandel, *Armies without States : The Privatization of Security*, 17.

¹¹ Ibid.

¹² Ibid.

¹³ See David Shearer, “Privatising Protection,” *The World Today* 57, no. 8/9 (2001); Brooks and Renou, *Peacekeeping or pillage? : private military companies in Africa*; Spicer, *An Unorthodox Soldier*; Eben Barlow, *Executive Outcomes: against all odds* (Alberton, South Africa: Galago Books, 2007).

¹⁴ Singer, *Corporate Warriors*: 182–87.

protection, the UN hired Lifeguard Services, a PSC. Ironically, the UN had “publicly excoriated” the private military company, Executive Outcomes (EO), for its activities in Sierra Leone and elsewhere, yet many employees “shift[ed] back and forth” between EO and Lifeguard while protecting UN personnel and offices.¹⁵ The UN currently hires PSCs to perform many functions including aviation and transport, as well as armed and unarmed protection of UN officials, buildings, and equipment.¹⁶ If the mission is a Security Council (SC) mandated mission, peacekeepers can perform many of the security tasks to protect UN officials, experts on mission, buildings or equipment. If it is not an SC mandated peacekeeping operation, peacekeepers cannot provide security for UN personnel, diplomats, or observers.

Although the UN is increasingly using armed and unarmed PSCs in peacekeeping operations, there is no comprehensive policy statement or guidance by the UN for the use of PSCs in peacekeeping operations.¹⁷ The fact that there is no clear guidance on contracting raises suspicion that the UN may be trying to disguise its increased use of PSCs for fear it will lose legitimacy, or maybe it is because the UN knows that member states would never approve the use of PSCs in the widespread manner they are now being

¹⁵ Jack Kelly, “Safety at a Price,” *Pittsburgh Post Gazette*, 13 February 2000. Cited in Peter Singer, “Humanitarian Principles, Private Military Agents: Implications of the Privatized Military Industry for the Humanitarian Community,” *Brown Journal of World Affairs* 13, no. 1 (2006): 114.

¹⁶ Adam Smith, “Interview with Adam Smith, Researcher, International Peace Institute” (New York, 19 June 2012); UNDPKO Official #1, “Interview with Senior United Nations Department of Peacekeeping Operations Official #1,” ed. CDR Daniel G. Straub (United Nations complex, New York, NY 22 June 2012); Lou Pingeot, “Interview with Ms. Lou Pingeot, Program Coordinator, Global Policy Forum” (Phone interview, 25 May 2012).

¹⁷ Åse Gilje Østensen, “UN Use of Private Military and Security Companies: Practices and Policies,” ed. Alan Bryden and Heiner Hanggi (The Geneva Centre for the Democratic Control of Armed Forces (DCAF), 2011); Lou Pingeot, “Dangerous Partnership: Private Military & Security Companies and the UN,” (New York: Global Policy Forum, June 2012); Lou Pingeot, “My interview with Ms. Lou Pingeot, Program Coordinator, Global Policy Forum.”

used.¹⁸ It may also be that this current ad hoc nature of contracting PSCs is similar to the U.S. usage of PSCs in Iraq and Afghanistan—that is, use of PSCs is outpacing doctrine or policy governing their use.¹⁹

By drawing on case studies, interviews, data on operations conducted by the UN and PSCs in peacekeeping operations, as well as data from contracts, government documents, UN mandates, and regulatory mechanisms, this dissertation will compare the capabilities of UN-sanctioned troops with those offered by PSCs. In order to lay out the pros and cons of each side of the issue, a number of obstacles to compiling, reviewing, and drawing conclusions from the data collected had to be overcome. For example, institutional resistance to the use of PSCs for peacekeeping is not spelled out in official UN literature or statements by UN officials, but the fact that the UN has not done any extensive study on the potential privatization of peacekeeping is an indication that the idea has not been seriously considered by the UN.

Other indicators may be found in the organizational structure of the UN, specifically, the idea of path dependence and the notion that the UN may be resistant to use PSCs because of its own embedded practices, norms, and standard operating procedures (SOPs). In this case, the adherence to specific organizational structures and rules may actually impede the ability of the UN to fully do its job, for example, to protect people from the *scourge of war*, even though adherence to these principles or standards may enhance the UN's legitimacy. In the case of the UN with regard to PSCs for peacekeeping, it may be that "[f]ormal structures that celebrate institutionalized myths differ from structures that act efficiently...Categorical rules conflict with the logic of

¹⁸ UN reports and documents from their contract procurement site confirm a substantial increase in the use of "security services" after 2008, the year that coincides with the UN report "Towards a Culture of Security and Accountability." United Nations Global Marketplace, "Annual Statistical Report on United Nations Procurement," United Nations, <https://www.ungm.org/Info/annual-statistical-report-UN-sustainable-procurement.aspx>; Lakhdar Brahimi, "Towards a Culture of Security and Accountability," in *The Report of the Independent Panel on Safety and Security of UN Personnel and Premises Worldwide* (New York: United Nations, June 2008).

¹⁹ Østensen, "UN Use of Private Military and Security Companies: Practices and Policies." *See also* Stuart W Bowen, *Hard Lessons: The Iraq Reconstruction Experience* (Charleston: CreateSpace, 2009). In *Hard Lessons*, Bowen discusses the lack of resources, including Contracting Officer Representatives capable of monitoring and controlling the massive growth of the private security industry.

efficiency.”²⁰ For instance, are there certain norms that proscribe behavior and reduce the options available, even if alternative routes are cheaper and more effective? Legitimacy falls largely within a normative context which can be legal, moral, and political.

In order for peacekeeping operations to be successful, peacekeepers must be accountable and legitimate (which includes being neutral and impartial²¹), have the essential physical and logistical capacity and the necessary resources, plus be capable and effective in providing human security.²² Lack of any one of these elements is sufficient, but not necessary, to be a cause of failure. Other factors which have nothing to do with the actions or capabilities of the peacekeepers themselves may also lead to failure of a peacekeeping mission. For example, a lack of consent of the parties, lack of desire to stop fighting, or weak political will of the Security Council might all negatively affect the outcome of the mission or mandate.²³ These are vital discussions that this dissertation addresses, since, in order to understand the how pros and cons apply, it is necessary to understand not only what peacekeepers do, but what makes for successful peacekeeping.

Success is most likely when there is consent, clear lines of accountability, a well-written and comprehensible mandate, a responsive framework, and an exit strategy, as well as iterative and interactive learning throughout every phase of peacekeeping and at

²⁰ John W. Meyer and Brian Rowan, “Institutionalized Organizations: Formal Structure as Myth and Ceremony,” in *The New Institutionalism in Organizational Analysis*, ed. Paul J. DiMaggio and Walter W. Powell (Chicago: The University of Chicago Press, 1991), 55.

²¹ Impartiality/neutrality and consent of the parties are not necessarily components of successful peace enforcement missions; however, if not met, they may be sufficient conditions for failure. Lise Morjé Howard, *UN peacekeeping in civil wars* (Cambridge ; New York: Cambridge University Press, 2008), 8.

²² Global Peace Operations Initiative, “Principles of UN Peacekeeping,” in *Peacekeeping Operations Contingent Commanders’ Course*, ed. What are the “Criteria [sic]” for Successful Deployment (Monterey, CA: Center for Civil-Military Relations, 2012). See also United Nations Secretariat, “United Nations Peacekeeping Operations: Principles and Guidelines,” ed. Jean-Marie Ghehenno (New York: United Nations, 2008).

²³ Howard, *UN peacekeeping in civil wars*. Howard argues that consent of the parties, and “consensual but only moderately intense Security Council interest are both necessary but not sufficient conditions for success.”

every level.²⁴ Evaluating advantages and disadvantages will provide another tool for use in deciding whether or not privatization of security or any aspect of peacekeeping should be undertaken by the UN.

A. SIGNIFICANCE OF DISSERTATION

Oldrich Bures has asked a key question: “Are private military companies capable of taking on some of the proliferating international peacekeeping functions in a way that would be consistent with the primary objective of the UN Charter, ‘to save the future generations from scourge of war?’”²⁵ Private security companies can be small and focus all of their attention on physical security, or they can be large organizations, offering comprehensive services from laundry and food preparation to diplomat protection and combat operations.²⁶ PSCs provide protection for government personnel, IGOs, NGOs, and international organizations conducting operations in other dangerous environments.²⁷

²⁴ Ibid.; Virginia Page Fortna, *Does peacekeeping work?: shaping belligerents’ choices after civil war* (Princeton: Princeton University Press, 2007); Michael G. Smith and Moreen Dee, *Peacekeeping in East Timor: The Path to Independence* (Boulder, CO: Lynne Rienner Publishers, 2003); Ramesh Chandra Thakur, *The United Nations, peace and security : from collective security to the responsibility to protect* (Cambridge, UK ; New York: Cambridge University Press, 2006); John Paul Lederach, *Building peace : sustainable reconciliation in divided societies* (Washington, DC.: United States Institute of Peace Press, 1997).

²⁵ Oldrich Bures, “Private Military Companies: A Second Best Peacekeeping Option?,” *International Peacekeeping* 12, no. 4 (Winter 2005): 533.

²⁶ Singer, *Corporate Warriors*: 92–100; Avant, *The market for force : the consequences of privatizing security*: 16–22. Although Singer refers to “firms” and Avant prefers “contracts,” both Singer and Avant use the analogy of a spear to represent the different services that PSCs offer, with combat-oriented services near the tip, consulting and training services along the shaft, and logistic and support services toward the rear; the closer to the “tip,” the closer to the battle. This analogy has been commonly cited when discussing PSC typology. J. Eric Fredland, “Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies,” *Defence and Peace Economics* 15, no. 3 (2004): 217–19. Fredland also discusses the broad range of PSC types and references Doug Brooks’s typology which categorizes by types of activities; see Doug Brooks, “Private Military Service Providers: Africa’s Welcome Pariahs,” in *Guerres D’Afrique, Nouveau Mondes* 10, ed. Laurent Bachelot (Geneva: Centre de Recherches Entreprises et Societes, 2002)..

²⁷ Doug Brooks and Matan Chorev, “Ruthless Humanitarianism: why marginalizing private peacekeeping kills people,” in *Private Military and Security Companies: Ethics, policies and civil-military relations*, ed. Andrew Alexandra, Deane-Peter Baker and Marina Caparini (New York: Routledge, 2008).

They also provide combat support and physical security pre-, during, and post-conflict.²⁸ It is argued that PSCs see their next “pot of gold” market in humanitarian operations, working with NGOs and IGOs (primarily the UN), to include stability and reconstruction operations, security sector reform (SSR), disarmament, demobilization, and reintegration (DDR), and humanitarian assistance and disaster recovery (HA/DR).²⁹ However, to date in the realm of international peacekeeping operations, they are limited to training, logistics and technical assistance.³⁰ Although PSCs have not conducted peacekeeping for the UN, they have conducted peacekeeping in one form or another for states and alongside regional peacekeepers. This study analyzes data gleaned from all known cases of PSCs in peacekeeping from the end of WWII to the present, but focuses predominantly on the period of time following the end of the Cold War to the present when PSCs began their explosive growth.

Because the scholarly literature contains no clear consensus on either objectives or measures for evaluating peacekeeping operations, specific roles, missions, mandates, and capabilities are compared on a parity basis within relevant case studies to the greatest extent possible.³¹ Four types of peacekeeping have been distinguished: peacemaking, peacekeeping, peace-building, and peace enforcement. In individual cases, measurements of success or failure will be related to the type of peacekeeping in question.

²⁸ There are numerous examples of PSCs actively involved in all phases of conflict supporting combat units, and often engaging with the enemy themselves. See Singer, *Corporate Warriors*: 101–18. A number of recently published books documents much of the work of PSCs from different perspectives, but all find them engaged in support of or alongside military troops at one time or another. For example, Robert Young Pelton, *Licensed to kill : hired guns in the war on terror*, 1st pbk. ed. (New York: Three Rivers Press, 2007); Shawn Engbrecht, *America’s covert warriors: inside the world of private military contractors*, 1st ed. (Washington, DC: Potomac Books, 2011); James Ashcroft, *Making a killing : the explosive story of a hired gun in Iraq* (London: Virgin Books, 2010); Gerald Schumacher, *A bloody business : America’s war zone contractors and the occupation of Iraq* (St. Paul, MN: Zenith Press, 2006); Jeremy Scahill, *Blackwater : the rise of the world’s most powerful mercenary army* (New York, NY: Nation Books, 2007).

²⁹ Singer, *Corporate Warriors*: 82–83. See also Nathan Hodge, *Armed Humanitarians: The Rise of the Nation Builders* (New York, NY: Bloomsbury, 2011).

³⁰ Brooks, “Ruthless Humanitarianism: why marginalizing private peacekeeping kills people,” 118–21.

³¹ Bures, “Private Military Companies: A Second Best Peacekeeping Option?,” 533, 40. Bures cites Bellamy, Williams, and Griffin, *Understanding peacekeeping*: 272.

The analysis concludes that PSCs do offer advantages that the international community cannot provide, specifically, speed, innovation, cost-effectiveness and efficiency in the short-term. However, this study also finds disadvantages to the use of PSCs, to include legitimacy, accountability, long-term efficiency, cohesion, and command and control. Not surprisingly, each of these disadvantages can undermine the potential expediency and utility of their use. PSC assertions of “superior feasibility, availability, professionalism and lower costs,” and “better, cheaper, faster,” might ultimately serve to improve human security, and may also improve national security, international security, and global security.³² However, evidence has not consistently borne out these assertions. If the extensive use of PSCs in the U.S. interventions in Iraq and Afghanistan serve as representative examples, then it is clear that regulatory structures, transparency, and clearly delineated contracts are necessary for the successful use of PSCs and privatization in general. Ad hoc contracting of private security by the UN under unclear guidelines will yield similarly spotty results. If ending the “scourge of war,” protecting civilians, and achieving human security are truly the aims of the UN, careful consideration will have to be given to the benefits and hazards posed by hiring private security. Although this dissertation suggests that PSCs should be used in UN peacekeeping, it also contends that it is necessary to fully understand the pros and cons of using PSCs before making decisions to use them in any capacity and that any decision to use PSCs is done so with a clear contract in place and the capacity to manage that contract for efficiency, control, and effectiveness.³³

Until now, the primary factors of the debate on whether to privatize peacekeeping or supplant armed forces for contracted personnel have been primarily in the realm of

³² Mandel, *Armies without states : the privatization of security*: 17–18; Singer, *Corporate Warriors*: 183; Mary Kaldor, *Human Security: Reflections on Globalization and Intervention* (Malden, MA: Polity Press, 2007), 182–97.

³³ Bruneau, *Patriots for profit : contractors and the military in U.S. national security*: 28–49; Moshe Schwartz, “The Department of Defense’s Use of Private Security Contractors in Afghanistan and Iraq: Background, Analysis, and Options for Congress,” in *CRS Report for Congress* (Washington, DC: Congressional Research Service, 13 May 2011).

cost savings, innovation, and capability;³⁴ however, there are many more factors that should weigh into this equation, such as legitimacy, human security, and political will to stop or prevent violence to people.

Other studies often focus on failings of PSCs in non-peacekeeping roles to project how they will likely behave in peacekeeping. However, PSCs have never been used in peacekeeping under the UN with the requisite controls and structure that the UN places on peacekeepers; therefore, these projections are based on flawed comparisons. In order to properly evaluate aspects of PSCs' capability to conduct peacekeeping, cases must be compared where they were used for peacekeeping, either by states or regional organizations, or where they supported peacekeeping operations but did not actually conduct peacekeeping. The three most definitive cases where PSCs either acted solely as peacekeepers (in one form or another) or worked with other peacekeepers are represented in three plausibility probes found in Chapter V (Angola, Sierra Leone, and Bosnia).

The primary gap in the literature lies in conducting empirical analysis of a broad scope of examples, rather than relying only on specific cases in order to draw singular conclusions. For example Angola and Sierra Leone are cases where PSCs claim that the use of a PSC (Executive Outcomes) to stop violence is proof positive that they can accomplish peacekeeping missions given the latitude and authority. Others, opposed to PSCs in peacekeeping use the same examples to show that EO violated human rights, committed theft on a grand scale, and only delayed violence and human suffering from occurring, resulting in an overall reduction of human security. The following analysis will make it possible to highlight similarities and differences across a broad range of examples in order to provide greater data from which to draw conclusions as to the relative advantages and disadvantages in the use of PSCs in peacekeeping. Reviewing a

³⁴ For examples of these arguments, see: Allison Stanger, *One nation under contract : the outsourcing of American power and the future of foreign policy* (New Haven: Yale University Press, 2009), 12–29; Brooks, “Ruthless Humanitarianism: why marginalizing private peacekeeping kills people,” 120; Doug Brooks, “Messiahs or Mercenaries? The Future of International Private Military Services,” *International Peacekeeping* Vol. 7, no. No. 4 (2000): 140; Singer, *Corporate Warriors*: 7, 17–18, 49–70; Charles C. Moskos, *Peace soldiers : the sociology of a United Nations military force* (Chicago: University of Chicago Press, 1976), 4–11; Fredland, “Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies,” 207–19.

broad scope of literature and answering specific questions may bear out variables which may not matter as much as previously thought or it may identify others that are more important than had previously been thought, e.g., legitimacy, impartiality, neutrality, consent of parties, protection of civilians, or use (or non-use) of force. Particularly, this study, in contrast to others,³⁵ finds that human security has not been given enough weight in determining pros and cons of PSCs' use in peacekeeping. This study also seeks to evaluate the merits of the claim that simply stopping the violence quickly can sometimes be enough to separate the parties until the international community has time to respond.

The question of whether or not private security companies actually reduce or prevent violence to persons and improve livelihoods across a spectrum of humanitarian missions and cases, e.g. HA/DR, SSR, or DDR, and especially peacekeeping, has not been studied in depth or in any comprehensive fashion. Individual research has focused more on specific successes or failures, and more often than not, private security companies have garnered criticism and negative attention for their failures and little

³⁵ Other studies which analyze PSCs and UN peacekeeping often take a normative stance on their fitness for accomplishment of peacekeeping duties based upon capabilities, for example, *see* Christopher Spearin, "UN Peacekeeping and the International Private Military and Security Industry," *International Peacekeeping* 18, no. 2 (April 2011). Or scholars and analysts of PSCs and peacekeeping focus on accountability, cost, or legal control in order to make their determinations, *see* for example, Laura Dickinson, "Book Discussion "Outsourcing War and Peace": The Rise of Private Military Contractors and the Importance of Public Values," (Washington, DC: *Opinio Juris*, 15 May 2012); Benedict Sheehy, Jackson Nyamuya Maogoto, and Virginia Newell, *Legal control of the private military corporation* (Houndmills, Basingstoke, Hampshire; New York: Palgrave MacMillan, 2008); Eric George Azeez O Olaniyan, Thembani Mbadlanyana, Chris, M A Kwaja, and Dan Kuwali, "From Market For Force to Market for Peace: Private Military and Security Companies in Peacekeeping Operations," in *Monograph Series*, ed. Sabelo Gumedze (Pretoria: Institute for Security Studies (ISS), 1 November 2011); Surabhi Ranganathan, "Constructing Governance, but Constructive Governance? The Emergence and Limitations of a Dominant Discourse on the Regulation of Private Military and Security Companies," in *Asian Society of International Law Young Scholars Conference* (Singapore: Cambridge University, September 2008). The aforementioned are examples of the bulk of the literature on PSCs and peacekeeping. None analyze the various pros and cons of PSCs in peacekeeping using human security as the measure and final determinant of the value of each advantage or disadvantage.

recognition for their value or successes.³⁶ But are these failures indicative of their overall performance and impact, or are many of these failures isolated or sensationalized examples that only work to create misperception? It may be that private security companies are suited only for specific roles and missions not tied to improvements in human security or peacekeeping, and if this is the case, then clear lines might be drawn delineating their use and boundaries, as well as what functions should remain solely the purview of the state and international community.

Another area that makes this a puzzle worth researching, one that is relevant especially today as militaries downsize and troops for peacekeeping are becoming harder and harder to find, is that the current market for peacekeepers is exactly that, a market. During the 1990s, a growing “culture of protection” and the “responsibility to protect,” led to increased intervention by the international community across sovereign borders. However, during this same time, “there was also a shift away from Western states as prominent troop providers, towards developing nations largely taking over the task.”³⁷

One consequence of this market for peacekeepers is that lesser developed countries (LDCs) conduct 90% of the peacekeeping duties. This has led to heavy economic reliance on the UN to pay these troop contributing countries (TCCs) for their troops.³⁸ Additionally, states such as India and Pakistan have found prestige and power in positions throughout the UN hierarchy.³⁹ Not only does a position at UN

³⁶ Dickinson, *Outsourcing war and peace : preserving public values in a world of privatized foreign affairs*: 3–4, 17, 191–95; Mervyn Frost, “Regulating Anarchy: the ethics of PMCs in global civil society,” in *Private Military and Security Companies: Ethics, policies and civil-military relations*, ed. Andrew Alexandra, Deane-Peter Baker and Marina Caparini (New York: Routledge, 2008), 43–44. Also, Doug Brooks, the president of the International Stability Operations Association, the largest PSC trade association, has claimed that the media has intentionally mischaracterized PSCs for a sensationalist impact but does not seem to report as robustly on all the good that private companies do; see Doug Brooks and Mackenzie Duelge, “Ethical Lessons On Maximizing Private Contractor Value In Afghanistan and Iraq,” in *Conflict Management and “Whole of Government”: Useful Tools for U.S. National Security Strategy*, ed. Volker C. Franke and Robert H. Dorff (Carlisle: Strategic Studies Institute, 2012).

³⁷ Østensen, “UN Use of Private Military and Security Companies: Practices and Policies,” 19.

³⁸ United Nations, “Contributors to United Nations Peacekeeping Operations,” United Nations, http://www.un.org/en/peacekeeping/contributors/2012/june12_1.pdf.

³⁹ “A country like Indonesia now has a goal of becoming one of the top 15 TCCs, which is about prestige—being seen as an international peacemaker.” Smith, “Interview with Adam Smith, Researcher, International Peace Institute.”

headquarters carry great responsibility, reflecting positively on the official's home country, but it carries a great deal of power in making recommendations on what states' troops are provided, where, and how many. In cases where TCCs are receiving millions of dollars in payments for providing peacekeepers, recommendations by these officials can have economic, political, and social ramifications. Consequently, any consideration of PSCs in peacekeeping not only raises the necessary (and common) questions of accountability, legitimacy, impartiality, and neutrality, but the use of PSCs can have political, economic, and social ramifications for certain governments. If predominantly Western private companies begin to take millions of dollars that previously went to LDCs for peacekeeping troops or resources, this could potentially affect human security, and ultimately the ability of the UN to conduct its fundamental mission, in ways that have not yet been fully analyzed.

It is not likely that the UN will allow PSCs to conduct peacekeeping any time soon; however, PSCs are making significant strides into the peacekeeping market.⁴⁰ A sharp increase in ad hoc contracting of PSCs to protect UN personnel, offices, and equipment was spurred by deadly attacks on UN personnel in Baghdad and Algiers, and there does not appear to be any reduction in the use of PSCs in UN missions on the horizon.⁴¹ PSCs may not be conducting actual peacekeeping, but they are deeply ingrained in the process of international peacekeeping. When PSCs become this deeply enmeshed in UN missions and UN projects, there is a strong likelihood that they will be

⁴⁰ A high ranking UN official made it very clear to me in our interview that the "UN will never use PSCs for peacekeeping"; however, the same official also justified the use of PSCs as protection to support UN operations when peacekeepers are not authorized. #1, "Interview with UNDPKO Official #1." Indicators that the UN is increasingly using PSCs can be found on the UN website; *see, for example*, data from UN Procurement Division (UNPD) which provides data for contracts and purchase orders (POs) for each mission; United Nations Procurement Division (UNPD), "Contract Awards for UNPD," United Nations, http://www.un.org/Depts/ptd/award_contract_pd.htm; *see also*, Annual Statistical Report on UN Procurement. Marketplace, "Annual Statistical Report on United Nations Procurement." website, accessed 29 July 2012. One report found that from 2006 to 2011 there was a 250% increase in the use of security services by the UN, *see* Pingeot, "Dangerous Partnership," Appendix II.

⁴¹ *See* Brahimi, "Towards a Culture of Security."; Pingeot, "Dangerous Partnership." 22 UN staff and visitors killed in Baghdad in 2003; 17 UN personnel killed in Algiers in 2007—both of these incidents instigated a major report aimed at increasing the security of UN personnel.

perceived as part of the UN project by those whom the UN is there to help.⁴² The use of PSCs in any international capacity can be complex and have ties to many other aspects that can impinge upon peace and security. Understanding the full gamut of pros and cons associated with PSC use in peacekeeping will help sort out these complexities and assist in determining future policy and guidance.

B. METHODOLOGY

This study primarily employs an exploratory qualitative research strategy, tracing historical processes, and analyzing the content of both existing work and original interview data. Semi-structured interviews were conducted with industry professionals, UN officials, government employees, academics and researchers in order to create inference and draw conclusions regarding the advantages and disadvantages of PSCs in peacekeeping.⁴³ Because there are numerous actors evaluated when determining advantage/ disadvantage—in this case, UN state-sponsored forces, other armed forces, and PSCs—multiple methods are combined with a structured focused approach to discovery.⁴⁴ Another set of tools used (used loosely, but used nonetheless) to evaluate the data are John Stuart Mill’s method of agreement and difference combined with process-tracing. Mill’s method applies to comparisons of cases and evidence since there are cases presented where only UN peacekeepers were used, where only PSCs were used, and where both were used together, and since one circumstance has presented itself as

⁴² Brahimi, “Towards a Culture of Security,” 57.

⁴³ Interviews include: Doug Brooks, president of the International Stability Operations Association (ISOA), a lobbying group representing international contractors and private security companies; the Honorable Joseph Schmitz, former DoD IG and former COO for Blackwater Worldwide; a Director at UNDFS; two Security Coordination Officers with UNDSS; Adam Smith, International Peace Institute; James Cockayne, Co-director, Center on Global Counterterrorism Cooperation; Major General (Ret) Patrick Cammaert, former UN Force Commander to Eritrea and Ethiopia, the Eastern Democratic Republic of Congo, and UN military adviser UNDPKO; Col (Ret.) Tim Byrne, Director, Global Peace Operations Initiative, Center for Civil-Military Relations; Ms. Lou Pinget, Program Coordinator, Global Policy Forum, and others.

⁴⁴ Alexander L. George and Andrew Bennett, *Case studies and theory development in the social sciences*, BCSIA studies in international security (Cambridge, Mass.: MIT Press, 2005); Tanya Cook, “Dogs of War or Tomorrow’s Peacekeepers?: The Role of Mercenaries in the Future Management of Conflict,” *Culture Mandala: The Bulletin of the Centre for East-West Cultural and Economic Studies* 5, no. 1 (2002).

common to all circumstances, Mill's method applies here. To wit, "If two or more instances of the phenomenon under investigation have only one circumstance in common, the circumstance in which alone all the instances agree, is the cause (or effect) of the given phenomenon"; e.g., in the case of PSCs and peacekeeping, whenever PSCs were charged with peacekeeping (albeit what would be considered "enforcement"), they effectively reduced violence to persons while they were present—this is certainly not the case with peacekeepers.⁴⁵ Because tasks or circumstances were not *exactly* the same, inference is necessary to draw comparisons between the cases and find common elements. Process-tracing is used to some extent to complement the comparative case study method used here by ruling out intervening variables, attributing causal significance to the other variables that have not gotten enough attention in other literature.

The first step in this research project was to collect and define each of the arguments either for or against PSCs. For example, one argument contends, "PSC personnel commit human rights abuses for which there are no mechanisms to punish them; therefore, in an area where protecting human security is vital, PSCs should not conduct peacekeeping." Another argues, "PSCs can bolster the UN's capability to carry out the responsibility to protect (R2P); therefore, in the interest of human security, PSCs should conduct peacekeeping." Once primary arguments were collected, they were sorted into categories such as "accountability," "legitimacy," and "impartiality/ neutrality." There were also other categories to consider. For example, academics have a different perspective from practitioners on the importance of legitimacy or effectiveness. These categories were then analyzed for links between or among arguments. As per the examples used above, in cases of criminal acts perpetrated by PSCs or UN peacekeepers, there were certainly questions of accountability; however, criminal acts may also impact legitimacy (or perceptions of legitimacy). Therefore, linkages necessarily needed to be explored in order to fully analyze the data which supports or disputes positions in favor

⁴⁵ Ibid., Mill's methods are discussed in George and Bennett's book, citing Bruce Pirnie et al., *Assessing requirements for peacekeeping, humanitarian assistance, and disaster relief* (Santa Monica, Calif.: Rand, 1998).

of or against PSCs in peacekeeping. Once the arguments were presented and collated, a final review was conducted to ascertain that the major arguments had been addressed, and just as importantly, that the ties had been explored so that the data collected was applied to each argument in proper measure. Following determination of the primary arguments for and against PSCs in international peacekeeping, an exhaustive data search on PSCs and traditional, state-sponsored peacekeepers became necessary in order to collect evidence relevant to evaluating the various arguments.

In order to accomplish the task of reviewing the pros and cons for PSCs in international peacekeeping, it was necessary to collect data about PSCs as well as traditional, state-sponsored peacekeepers. The research involved collecting several types of data. First, I sought information on actual costs, in dollars, as well as consideration of political and social costs (where this data could be found). Second, documented abuses committed by both PSCs and state-sponsored peacekeepers were considered; these included fraud, human rights abuses, and other criminal activity. Finally, issues such as effectiveness, legitimacy, accountability, and capability were addressed; however, “data” in this realm involve a degree of subjective judgment that could not be avoided. Therefore, in cases where specific or empirical data did not enable definite conclusions, inference was drawn from a preponderance of information collected.

In order to arrive at the conclusion that consideration of human security is an essential element in effective peacekeeping, Mill’s method of elimination was used, in part, to enable exclusion of elements that did not cause the outcome, that is, the capability to conduct peacekeeping. Using this method, multiple peacekeeping missions were compared (as well as elements within a peacekeeping mission), each with different outcomes. When it was found that there was a condition that existed across multiple cases, for example, participation in peacekeeping efforts by major powers, then through Mill’s method of difference, major power presence cannot necessarily account for the different outcomes.

Process-tracing and within-case analysis has also been used because of the problem of multiple causes, that is, there are different causes for peace within each case. PSCs claim that their speed, efficiency, cost, and flexibility are directly linked to the

achievement of peace, while the UN claims that legitimacy, long-term support, international attention, and the three basic principles of consent, impartiality, and non-use of force except in self-defense lead to peace. Simply comparing each case against a list of standard questions does not adequately address all of the pros and cons of PSC use in peacekeeping. Peacekeeping operations and mandates almost always change over time, requiring different resources, capabilities, levels of intervention, and support.⁴⁶ Even clear-cut cases do not follow one specific path throughout the entire operation and often exercise various tactics, techniques, and procedures (or modifications to the mandate) which change as the situation on the ground progresses. Process-tracing takes these changes over time into account by considering and reviewing the alternative causes of the outcome (peacekeeping success or failure, in other words, peace or no peace) and what capabilities may have led to that outcome.⁴⁷ Process-tracing combined with structured, focused comparison “provide different and complementary bases for causal inference.”⁴⁸

Causal inference is also drawn between cases involving UN peacekeepers and PSC personnel. The differences have been reviewed in detail, but certain key considerations were tested in order to draw these inferences; this is the value of employing both methods to determine causality. For example, impartiality or neutrality is questioned of PSC personnel; how do questions of impartiality or neutrality apply to UN or regional actors? Did impartiality or neutrality have an effect on ability to fulfill the mandate? Was human security a factor in considering capability to conduct the mission? What about legitimacy? Is this a correctible concern? Can groups conducting peacekeeping *gain* legitimacy? Hypothetical questions like these draw out alternative processes that lead to outcomes within each case and which also have relevance to, but different impact, in different peacekeeping cases.

Short case studies, called “plausibility probes” in this dissertation, were used to evaluate the pros and cons discussed against real cases of UN peacekeeper and PSC

⁴⁶ Howard, *UN peacekeeping in civil wars*: 6–7.

⁴⁷ George and Bennett, *Case studies and theory development in the social sciences*: 207.

⁴⁸ *Ibid.*, 208.

involvement. These plausibility probes were also used to test claims of what causes peace or peacekeeping success (or failure) against actual peacekeeping or peace enforcement events using both PSCs and UN peacekeepers. Cases were selected for their ability to show the capabilities of UN peacekeepers as well as PSCs in conflicts in which they both conducted similar tasks. These cases were also chosen because they are representative of the very few times both PSCs and UN peacekeepers conducted similar missions. In two of the cases, Sierra Leone and Angola, PSCs and UN peacekeepers did not work together; in the final case, Bosnia, UN peacekeepers and PSCs worked together, yet still failed to produce sufficient human security effectively (or in time to prevent mass atrocities). These cases offer excellent examples for comparison because each has been called both a success and a failure for different reasons, over short or long time periods, and with reasons and causes given for each.

This study uses a mix of the methods described above to quantitatively and qualitatively review primary and secondary source data developed and acquired through case studies, government and UN records, and research on PSCs and their shifting modus operandi toward new profit-seeking opportunities. Measurements of human security will be based upon the UN's narrow definition of human security: "the protection of communities and individuals from internal violence."⁴⁹ Through reviewing case studies that show private security company successes and failures and evaluating them against a predetermined standard of human security, this dissertation tests theories that argue against further expansion of privatization of security into the peacekeeping realm, as well as those that claim that privatization saves lives, and by implication, improves human security.⁵⁰

In this investigation, I review primary documents relating to cost expenditures for privatization of security services, as well as contracts (where available), in order to establish verifiable costs for services and make value comparisons to the costs of not

⁴⁹ Human Security Report, 2005, VIII.

⁵⁰ Brooks and Choev, 116–130.

privatizing peacekeeping.⁵¹ Recognizing that human rights abuses, fraud, corruption, and criminal activity must necessarily play into the “costs” I dedicate research to evaluate these costs when considering value of privatization of security. Although this is clearly qualitative research, it can serve to illuminate patterns from which inferences are drawn.

C. DISSERTATION OVERVIEW

Chapter I discusses the increased use of PSCs by the United Nations, raises the question of UN use of PSC employees as peacekeepers, and introduces the concept of human security as a baseline measure of the pros and cons of using PSCs in peacekeeping. The UN is an international organization that acts in world affairs with the proclaimed aim of ending “the scourge of war” and promoting world peace. The UN often uses peacekeeping to further this goal. Human security and protection of civilians (PoC) are fundamental to successful accomplishment of peacekeeping. Private security companies claim to offer a flexible capability that can be used to assist organizations and states toward improvements in human security and in establishing peace. The advantages and disadvantages of use of PSCs in peacekeeping have not yet been fully determined. Chapter I also reviews the significance of this dissertation and the means used to support conclusions drawn.

Chapter II provides a review of the key concepts used throughout peacekeeping operations by the United Nations and regional organizations such as the African Union (AU), Economic Community of West African States Cease-fire Monitoring Group (ECOMOG), or the North Atlantic Treaty Organization (NATO). There is also a discussion on the typologies of peacekeeping, what the requirements are, who conducts peacekeeping, and the conditions for success and failure.

Chapter III provides a literature review of peacekeeping and PSCs, covering the elements of the debate, and provides definitions used in this dissertation. Chapter III

⁵¹ For example, Congressional Budget Office, “Contractors’ Support of U.S. Operations in Iraq,” (Washington, DC, 2008).

finishes with a compilation of the commonly held arguments on the pros and cons regarding PSCs in general and with regard to peacekeeping in particular.

Chapter IV discusses human rights and human security in detail with a focus on definitions of the narrow view and broad view of human security. The narrow view of human security is a fundamental requirement for successful peacekeeping, in that, quite simply put, if civilians are not safe from violence in either the short or long-term, then no form of peacekeeping is performing its intended function. If UN peacekeepers cannot prevent responsibility to protect (R2P) crimes and abuses (war crimes, ethnic cleansing, genocide, crimes against humanity), or protect civilians, then should the proposals presented by PSCs be something that should be considered by the international community? This research finds that PSCs' proposals should be considered. This section reviews human security and addresses arguments concerning various actors and peacekeeping but allows for future research and potential empirical evidence not currently available to answer the question as to whether or not PSCs should be an option for UN peacekeeping. Chapter V also includes a discussion on legitimacy and details how the foundations of legitimacy or how it can be acquired.

Chapter VI presents the specific data on peacekeepers and on the use of PSCs, to include cost data, where available, as well as documented abuses, fraud, and criminal activity. Databases maintained by public action groups, governmental commissions, international watchdog agencies, and criminal records provide information for tracking PSC misconduct. On the side of peacekeepers, the UN has been maintaining a database of misconduct by peacekeepers since 2005. This information and these statistics provide a comprehensive look at peacekeepers versus PSC personnel for evaluation and comparison of types and severity of abuses by various actors in conflict and post-conflict zones.

Chapter VII includes case studies on Angola, Sierra Leone, and Bosnia and Herzegovina (BiH), the three most extreme cases where UN peacekeepers, regional organizations, and PSCs have all attempted to bring peace in vastly different ways. Each of these missions is diversely problematic in the approach taken by states, regional powers, private actors, and the international community. None were clear successes for

either peacekeepers or PSCs; all three used regional and UN peacekeepers as well as PSCs in attempts to achieve peace and stability. Human security and human rights were both negatively and positively affected in all three cases, creating a good basis for evaluation. What these case studies do is provide a broad scope plausibility probe into the nature, tasks, functions, capabilities, and abuses of PSCs and UN peacekeepers in practice, exploring the pros and cons through actual cases.

Chapter VII evaluates the arguments for and against the use of PSCs in UN peacekeeping to include accountability and oversight, legitimacy, outsourcing, speed and flexibility, outsourcing costs and benefits, and intervention—the effects of PSC employees on local populations versus UN peacekeepers when Chapter VII missions have become the norm. The chapter also discusses the potential negative effects to states as well as to the “peacekept” when coercion or military force must be used to prevent aggression or to threats to breach of peace.

Chapter VIII presents some conclusions that could be drawn from the data and this study as well as some policy implications for the use of PSCs in UN peacekeeping. This dissertation suggests that PSCs should be used in peacekeeping, but that any consideration of the use of PSCs in peacekeeping must be accompanied by a critical view and the understanding that human security and protection of people and communities from violence and harm are fundamental to the mission of the UN and peace. The pros and cons presented in this paper are not an exhaustive list; rather, along with human security as a foundational comparative tool, they present a starting point for analysis and discussion. Chapter VII also discusses some of the future research opportunities on the subject of PSCs, peacekeeping, human security, and privatization of previously public functions.

D. RESEARCH GOAL

Using human security as a guiding concept, this dissertation evaluates the pros and cons of the use of PSCs in UN peacekeeping operations by reviewing the claims on both sides of this issue. Arguments evaluated are based on interviews with industry professionals, UN officials, and scholars, as well as primary and secondary source data

on PSCs and peacekeeping. Human security, protection of civilians, and the responsibility to protect are all primary motivations for UN action;⁵² therefore, human security has a fundamental role in determination of the positive and negative aspects of the use of PSCs for peacekeeping. If ending the “scourge of war” is the goal of the UN, then finding the most efficient and effective means of doing so necessarily includes a review of every option.

What this dissertation does not do is answer the normative question of whether PSCs are *capable* of conducting peacekeeping for the international community, since sufficient empirical evidence does not exist to support a claim that they can conduct peacekeeping for the UN. Although PSCs have performed peacekeeping roles for states and regional authorities, PSCs have never performed actual peacekeeping for the UN. However, there is value in assessing the arguments for and against PSC use in peacekeeping since the UN faces a decreasing budget, while the global need for peacekeepers appears to be increasing and the supply of state-sponsored peacekeepers has been diminishing.⁵³ UN Secretary General Ban Ki-moon, commented that, “[t]oday we face mounting difficulties in getting enough troops, the right equipment and adequate logistical support...Supply has not kept pace with demand.”⁵⁴ It is not only getting enough troops that is the problem; there is also the problem of getting properly trained troops who understand and can carry out the mission. In some cases, developing countries, in an attempt to provide a troop contingent quickly (or seeking additional payments from the peacekeeping budget), send poorly trained troops to UN missions.

⁵² Secretariat, “Peacekeeping Operations: Capstone Doctrine,” p. 28.

⁵³ Much of the swing away from major power support of peacekeeping began with humiliating failures such as occurred in Somalia where U.S. troops were dragged through the streets by bare-footed Somalis. Recently, killings of peacekeepers in Darfur and questions over security have led some nations to pull troops or support, see Benjamin Kahn, “Don’t Paralyze the Peacekeepers,” *New York Times* 9 February 2012; Sky News Australia, “UN aims for big cut in peacekeeping bill,” *Sky News* (9 February 2012), <http://www.skynews.com.au/politics/article.aspx?id=716593>. Peter Gantz of Refugees International wrote: “If nations with first class militaries refuse to put their troops in harm’s way in remote locations, and if the UN is saddled with troops from developing nations that are not up to the task, then perhaps the UN should hire the private sector to save the day.” Cited in Azeez O Olaniyan, “From Market for Force,” 25.

⁵⁴ Cited in UN News Centre, “UN to Strengthen Peacekeeping Efforts amid Rising Demand, Says Ban,” UN News Centre, www.un.org/apps/news/story.asp?NewsID=31383&Cr=Secretary-general&Cr1=peacekeeping. Accessed 4 March 2012.

Often, it is these very troops who end up committing human rights abuses placing the UN mission at odds with the local community they are attempting to assist. Both PSCs and traditional UN peacekeepers come with issues that must be dealt with and managed effectively in order to maximize human security in the communities in which they find themselves. Regardless of whether peacekeepers are on mission as military soldiers, police, staff, or civilians, they are still responsible for upholding the core values and competencies of the UN: integrity, professionalism, and respect for diversity—and they “should act in accordance with international human rights law and understand how the implementation of their tasks intersects with human rights.”⁵⁵

My argument is that if the UN’s goal is promoting peace and reducing human suffering, then actions that achieve human security are the fundamental elements by which PSCs (as well as all peacekeepers) must be measured for their use in UN peacekeeping operations. The ultimate aim of this dissertation is to inform policy formation, legal processes, and initiatives relating to the use of PSCs in peacekeeping efforts toward a more secure and peaceful world.

⁵⁵ United Nations Learning and Development (DM/OHRM), “UN Core Values and Core and Managerial Competencies,” United Nations, <http://www.un.org/staffdevelopment/viewPage.asp?selMenu=unc.asp>; Secretariat, “Peacekeeping Operations: Capstone Doctrine.”

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II. KEY CONCEPTS FOR ANALYSIS

This chapter discusses the different roles that peacekeepers have played over the years since the establishment of the UN as well as different types of peacekeeping in which they have been engaged. It also gives an overview of other groups and organizations that have conducted peacekeeping in various forms, to include individual states, regional organizations and private companies. This chapter also gives an overview of different definitions of success and failure for peacekeeping missions and holds that not only must there be a clear, achievable mandate with available resources, but that there must be full backing of the Security Council and all levels of the UN working together as a learning organization in order to protect human security. Finally, and not least important, consent, impartiality, and non-use of force are often necessary, but belligerents must be willing to commit to peace; without this peaceful intent, human security is not possible.

A. THE UNITED NATIONS, PEACEKEEPING, AND PRIVATE SECURITY COMPANIES

If member states don't give us resources, troops available for rapid deployment, money to do a sound, well-organized peacekeeping job, then the challenge is almost impossible.

Maj-Gen Patrick Cammaert, Military Adviser, UN DPKO⁵⁶

1. Peacekeeping

The broad term “peacekeeping” is sometimes used to describe all of the different missions where “peacekeepers” are used; however, the UN has never adopted an official definition. The International Peace Academy (IPA) provides a definition that the UN has used, which defines peacekeeping as the:

⁵⁶ Patrick Cammaert, “UN Press Statement,” (New York: United Nations Department of Peacekeeping, 29 May 2003). Accessed 18 May 2012.

*...prevention, containment, moderation, and termination of hostilities between or within states, through the medium of a peaceful third party intervention organized and directed internationally, using multi-national forces of soldiers, police and civilians to restore and maintain peace.*⁵⁷

The first peacekeeping operation, authorized in 1948, was the UN Truce Supervision Organization (UNTSO), whose role it was to monitor the Arab-Israeli ceasefire. The first peacekeeping operation to use peacekeeping forces was the United Nations Emergency Force (UNEF I), which positioned peacekeeping soldiers on the Egypt-Israeli border, and lasted for eleven years from 1956 to 1967. For nearly forty years, all UN peacekeeping missions essentially fell into one of three categories: observe; monitor; or supervise. It was not until the late eighties and early nineties that more robust, so-called “enforcement” missions began to become the norm.

Bellamy and Williams describe exactly what traditional peacekeeping is and what exactly peacekeepers do (see Table 1). However, two types of peacekeeping addressed often are Chapter VI, which involves the peaceful settlement of disputes, and Chapter VII, which authorizes action or force to maintain or restore peace, often referred to as “peace enforcement.” In the case of peace enforcement, or Chapter VII missions, the roles of peacekeepers are dramatically different. In these types of missions, peacekeepers are expected to intervene in conflicts and bring about peace, something which has proved much more difficult than maintaining peaceful settlements, even if tenuous. First, in peace enforcement operations, peacekeepers are expected to engage hostile forces in order to protect civilians;⁵⁸ this is not always the case with Chapter VI missions. Second, peacekeepers are susceptible to much more risk when intervening directly in a conflict when the “holy trinity” (consent, impartiality, and the defensive use of force) of

⁵⁷ International Peace Academy., *Peacekeeper's handbook*, [3rd ed. (New York: Pergamon Press, 1984), 22. This definition of peacekeeping has also been used in documents by the North Atlantic Assembly (NAA), Canadian Institute of Strategic Studies, “Peacekeeping & international relations,” (Ottawa: Peacekeeping & International Relations, 1991). Cited in Wolfgang Biermann and Martin Vadset, *UN peacekeeping in trouble: lessons learned from the former Yugoslavia: peacekeepers' views on the limits and possibilities of the United Nations in a Civil War-like conflict* (Aldershot, Hants, England ; Brookfield, Vt.: Ashgate, 1998), 17.

⁵⁸ In accordance with the mandate and ROE agreed to by TCCs.

traditional peacekeeping is eroded or nonexistent.⁵⁹ Third, the risk that peacekeepers face in Ch. VII missions can act to discourage states from contributing troops to missions where their soldiers have a much greater risk of being attacked and killed. Finally, interventions can carry much more political baggage than a traditional mission based upon the three fundamentals (the “holy trinity”). This political baggage can deter potential TCCs from intervening with their troops.⁶⁰ A mandate to use force can lead to a “vicious circle: more enforcement—less support—more chaos in UN operations.”⁶¹ As can be expected, the increased complexity of peace enforcement requires more and better trained troops, clear and effective command and control (C2), specialized skills and combat training, and a thorough and functional understanding of rules of engagement (ROE).⁶²

There are also vast differences between what combat soldiers and peacekeepers are expected to do. These differences also apply to PSC personnel because the role of a peacekeeper is one that is supposed to be open and transparent, not private. ROE are published and shared, not secret; positions of peacekeepers are revealed and known to all, as opposed to concealed, as in the case of combat troops.⁶³ Peacekeepers are also supposed to de-escalate situations, rather than escalate them in order to solve conflicts.

⁵⁹ Often called the “holy trinity” of peacekeeping, it is comprised of consent, impartiality (defined by Bellamy, Williams, and Griffin as “being synonymous with neutrality rather than as treating belligerents equally in relation to their adherence to the mandate”), and minimum use of defensive force. *See for example, Bellamy, Williams, and Griffin, Understanding peacekeeping: 96, 196–97.*

⁶⁰ For example, Biermann and Vadset discuss three operational and political elements of negative interaction when the UN chooses enforcement operations: 1) Enforcement requires larger and better trained units, better command and control, and qualified specialists, something only a few nations are able to provide; 2) “greater risks of such operations increase *national interference* in UN missions by governments which have a legitimate responsibility for their nationals...[which] reduces the military efficiency of the force and can thus even increase the risks of the operation”; and 3) “greater risks increase *national reluctance* to contribute troops, which *per se* adds to the risks and inefficiency of UN missions.” Biermann and Vadset, *UN peacekeeping in trouble: lessons learned from the former Yugoslavia: peacekeepers’ views on the limits and possibilities of the United Nations in a Civil War-like conflict*. *See also*, John Mackinlay, “Successful Intervention,” *International Spectator* 47, no. 11 (November 1993): 659. For element 2) above, Mackinlay argues that protecting one’s own soldiers could create national interference which “*reduces effectiveness by national interests*,” 659.

⁶¹ Biermann and Vadset, *UN peacekeeping in trouble: lessons learned from the former Yugoslavia: peacekeepers’ views on the limits and possibilities of the United Nations in a Civil War-like conflict*: 23.

⁶² *Ibid.*

⁶³ *Ibid.*

They cooperate, not confront; parties to a conflict are partners, not enemies.
“Peacekeepers have no right to ‘kill and destroy’ unless it is in self-defence.”⁶⁴

Table 1. Bellamy & Williams: Traditional Peacekeeping and Peacekeeping Activities⁶⁵

Traditional peacekeeping takes place in the period between a ceasefire and a political settlement and is designed to cultivate the degree of confidence between belligerents necessary to establish a process of political dialogue. As such, it is based on three assumptions. First, that the belligerents are states. Second, that the combatant units are hierarchically organized, Clausewitzian militaries. Third, that the protagonists wish to end the conflict and search for a political resolution.

Traditional peacekeeping activities typically vary from simple observation and fact-finding, to monitoring compliance with the conditions of ceasefires and physical interposition between the former belligerents. Peacekeepers monitor borders, patrol buffer zones, separating opposing forces, verify the various aspects of demilitarization, including weapons decommissioning and troop withdrawals, and attempt to create a political space that will facilitate a political resolution of the conflict. They do not devise political solutions themselves or enforce agreements between the competing parties.

In 1992, former UN Secretary-General Boutros Boutros-Ghali defined peacekeeping as “the deployment of a UN presence in the field, hitherto with the consent of all parties concerned.”⁶⁶ Consent is still listed as a fundamental condition for peacekeeping; however, since the early 1990s, the term “peacekeeping” has grown to include types of peacekeeping where there is no consent of the parties. This lack of

⁶⁴ Ibid., 17.

⁶⁵ Bellamy, Williams, and Griffin, *Understanding peacekeeping*: 97.

⁶⁶ Ibid., 12–13. Boutros Boutros-Ghali, *An agenda for peace : preventive diplomacy, peacemaking, and peace-keeping : report of the Secretary-General pursuant to the statement adopted by the summit meeting of the Security Council on 31 January 1992* (New York: United Nations, 1992).

consent has led to much confusion, not only for the UN soldier on the ground, but for policy-makers in member states or at UN headquarters. Although there is no definition of peacekeeping in the UN Charter, the different types of peacekeeping generally fall under six essential categories:

- Conflict Prevention/Preventive Diplomacy*
- Peacemaking*
- Peacekeeping*
- Peace Enforcement*
- Postconflict Reconstruction*
- Peacebuilding*

Although these are the categories used by the UN and many in the academic community, and will be the terms used here, they are not universally accepted. The broad consensus in the literature agrees that the first three of these are accomplished under Chapter VI of the UN Charter and are conducted with consent of the parties in conflict, impartiality of UN forces, and non-use of force.⁶⁷ Peace enforcement involves intervention where consent is not necessary, impartiality is conditional, and use of force is only authorized under delineated conditions as outlined by the Security Council. Peace enforcement falls under Chapter VII of the UN Charter and allows for a decision by the Security Council to “maintain or restore international peace and security in the face of a ‘threat to the peace, breach of the peace, or an act of aggression.’”⁶⁸

Although all categories can, and do, fall under the term “peacekeeping,” there are recognized divisions, especially between the first three forms of peacekeeping and peace enforcement. For this study, different types of peacekeeping are reviewed and compared when evaluating the advantages and disadvantages of PSCs in each peacekeeping role. A more detailed analysis of types of peacekeeping can be found in Chapter II.

⁶⁷ The “holy trinity” of traditional peacekeeping, these three fundamental principles still apply to UN peacekeeping wherever possible, but the increase in intervention missions in the interest of R2P, PoC, or human security has led to many more enforcement missions than ever before. Toffler, *War and anti-war : survival at the dawn of the 21st century*: 7–8.

⁶⁸ Bellamy, Williams, and Griffin, *Understanding peacekeeping*: 147–48. Bellamy further cites Boutros Boutros-Ghali’s *An Agenda for Peace* where he discusses provisions of collective security.

Peacekeeping is one of the main instruments in the maintenance of international peace and security. It is a means of ensuring the security of people and communities through reduction of violence and the threat of violence, i.e., human security. In order to accomplish this, critical elements to effective peacekeeping are necessary.⁶⁹

—*impartiality and neutrality*⁷⁰

—*control*

—*accountability*⁷¹

—*oversight*

—*transparency*

—*legitimacy*

—*cost and efficiency*

—*human security*

Although there are varying degrees to which each needs to be addressed through different peacekeeping missions, these elements are critical to success in varying degrees depending upon the specific circumstances of each mission. Moreover, there is certainly a large difference of opinion on the value of each of these elements with regard to PSCs and their ability to conduct peacekeeping.⁷² This dissertation examines a broad scope of the peacekeeping literature, to include cases where only the UN was involved, cases

⁶⁹ Various sources were used to compile this list which includes critical elements as identified by the UN, peacekeeping institutions, scholars on peacekeeping, and analysts. *See, for example* United Nations Secretariat, “United Nations Peacekeeping Operations: Principles and Guidelines,” (New York: United Nations, 2008); Dee, *Peacekeeping in East Timor: The Path to Independence*; Boutros-Ghali, *An agenda for peace : preventive diplomacy, peacemaking, and peace-keeping : report of the Secretary-General pursuant to the statement adopted by the summit meeting of the Security Council on 31 January 1992*; Swiss Federation Council, “International Code of Conduct for Private Security Service Providers,” (Bern: Swiss Federal Department of Foreign Affairs, 9 November 2010); Paul F. Diehl, *International peacekeeping : [with a new epilogue on Somalia, Bosnia, and Cambodia]*, Perspectives on security (Baltimore: Johns Hopkins University Press, 1994); Bures, “Private Military Companies: A Second Best Peacekeeping Option?.”; Human Security Centre, “Human security report: war and peace in the 21st century” (New York, NY: Oxford University Press, 2005).

⁷⁰ Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 33.

⁷¹ Ibid.

⁷² *See for example* William J. Durch, *Twenty-first-century peace operations* (Washington, DC.: United States Institute of Peace and the Henry L. Stimson Center, 2006); Howard, *UN peacekeeping in civil wars*; Fortna, *Does Peacekeeping Work*; Stephen John Stedman, Donald S. Rothchild, and Elizabeth M. Cousens, *Ending civil wars : the implementation of peace agreements* (Boulder, Colo.: Lynne Rienner, 2002); Thakur, *The United Nations, peace and security : from collective security to the responsibility to protect*; Alex J. Bellamy, Paul Williams, and Stuart Griffin, *Understanding peacekeeping*, 2nd ed. (Cambridge, UK ; Malden, MA: Polity, 2010); Dennis C. Jett, *Why peacekeeping fails*, 1st ed. (New York: St. Martin’s Press, 2000). Each has a different idea of what exactly makes for successful peacekeeping, and by implication, what causes failure in peacekeeping.

where PSCs were the primary agents, and cases where both PSCs and the UN were involved, in order to evaluate the arguments in favor of and those opposed to use of PSCs in peacekeeping. The variables explored here are the agents used to perform peacekeeping; the constant is the act of peacekeeping in its many forms. This study also compares and contrasts many of the specific tasks performed and capabilities of both UN peacekeepers and PSC personnel.

In order to better understand what, exactly PSCs are expected to accomplish if they are to take on the role of UN peacekeeping, peacekeeping itself must be thoroughly understood. As the UN's Capstone Document explains, "Peacekeeping is one among a range of activities undertaken by the United Nations and other international actors to maintain international peace and security throughout the world."⁷³ While the term is used broadly here and in most texts, the UN distinguishes peacekeeping from other efforts at preventing conflict and creating or preserving peace. Although peacekeeping is not specifically spelled out in the Charter, five separate categories of peacekeeping are distinguished in the UN's principles and guidelines manual for peacekeeping operations; however, rarely does any peacekeeping mission fit neatly into any one category.⁷⁴ Oftentimes, depending upon the stage of conflict, agreements in place (if any), needs of the parties to the conflict, or willingness of UN partners, peacekeeping is conducted in multiple categories simultaneously or progresses from one type to another type of peacekeeping.⁷⁵ Although peacekeeping typologies imply that the different types represent separate steps, the boundaries between all of them have become blurred, and often, these components are used simultaneously or shifted between in order to meet changing situations toward the goal of securing peace.⁷⁶

What makes for successful peacekeeping is difficult to pinpoint since so many factors are at work, many of which alone can cause failure. Different scholars and experts

⁷³ Secretariat, "Peacekeeping Operations: Capstone Doctrine," 17.

⁷⁴ Ibid.

⁷⁵ Ibid., 24.

⁷⁶ Ibid., 19.

have reviewed what peacekeeping success and failure is and how it can be measured; however, their descriptions vary significantly. A succinct and bulletized review of a few conceptions of what makes for peacekeeping success or failure follows for comparison:

–The U.S. Joint Chiefs of Staff state that “[t]he single most important factor for a PKO to have the potential for success is the consent to conduct the operation by the state or states involved and all significant parties to the dispute.”⁷⁷

–Paul Diehl measures successful peacekeeping by asking two questions: 1) Was there a “limitation of armed conflict?” 2) Was there a “resolution of the underlying conflict?”⁷⁸

–George Downs and Stephen Stedman also use two variables very similar to the above, but modify them to include the future: “(1) Whether large-scale violence is brought to an end while the implementers are present; and (2) whether the war is terminated on a self-enforcing basis so that the implementers can go home without fear of the war rekindling.”⁷⁹

–Lise Morjé Howard writes that the three main lines of argument for causes of success or failure are: 1) the “will of the warring parties to stop fighting”; 2) “Political will” of the Security Council; 3) adherence to the rules of peacekeeping—“consent, impartiality, and limited force.” However, her research shows that those three causes do not hold up for each case; she believes that although Security Council interest and consent of the parties are necessary, they are not sufficient conditions for success. She adds that there is another condition for success: “first-level organizational learning in the UN Secretariat.” This final condition is exemplified in her review of different cases where UN peacekeepers were present, and what she found was that when the UN was a “learning organization,” modifying the mandate and shifting strategies as the situation dictated, with full involvement of headquarters, success was much more likely.

⁷⁷ Joint Chiefs of Staff, “Joint Pub 3–07.3, Joint Tactics, Techniques, and Procedures for Peacekeeping Operations,” ed. U.S. Joint Chiefs of Staff (Washington, DC: U.S. Army, 29 April 1994).

⁷⁸ Cited in Howard, *UN peacekeeping in civil wars*: 7.

⁷⁹ Stedman, Rothchild, and Cousens, *Ending civil wars : the implementation of peace agreements*: 50.

–There are some scholars in peace studies who suggest that unless underlying conflict is resolved, and “those directly involved [and especially senior political leaders] have the vision, will, and commitment,” nothing will create lasting peace, no efforts will be sufficient.⁸⁰ In contrast, others argue that resolving the underlying issues “is not enough to convince the combatants to accept and implement a peace settlement.”⁸¹

–The UN holds that successful peacekeeping requires consent of the parties to the conflict, impartiality, and non-use of force except in self-defense and defense of the mandate, adding that legitimacy, credibility, and promotion of national and local ownership are also critical factors.⁸²

It is clear that there is no consensus on what makes for successful peacekeeping, or for that matter, what causes failure. In the end, the preponderance of data from several authoritative sources shows that the successful missions had the following in common: consent of the parties in conflict; local and senior political involvement from civil leaders; an interested, responsive, and effective UN, from the Secretariat to field operators; legitimacy of mission/mandate; sustained political will of the Security Council; and resource commitment (logistics, equipment, troops) from states.⁸³ I do not hold that there is one definition of requirements for success; there are simply too many variables in play in any one peacekeeping mission for there to be any sort of formula for success.

Each situation in which the UN gets involved and decides to use peacekeepers must be evaluated on its own qualities, character, and specific nature of the conflict. The extent to which consent is necessary may not be critical if genocide is occurring and the

⁸⁰ Adekeye Adebajo and Ismail O. D. Rashid, *West Africa's security challenges : building peace in a troubled region*, A project of the International Peace Academy (Boulder: Lynne Rienner Publishers, 2004), 2–3, 386–88; Daniel C. Bach, “The Dilemmas of Regionalization,” in *West Africa's Security Challenges: Building Peace in a Troubled Region*, ed. Adekeye Adebajo (Boulder: Lynne Rienner Publishers, 2004), 64–65.

⁸¹ Barbara F. Walter, “Designing Transitions from Civil War: Demobilization, Democratization, and Commitments to Peace,” *International Security* 24, no. 1 (Summer, 1999): 129.

⁸² Secretariat, “United Nations Peacekeeping Operations: Principles and Guidelines,” 31–41.

⁸³ See, for example, citations from previous paragraphs which attempt to define successful peacekeeping. Additional authors who use similar conceptions or different combinations of the listed common elements to define successful peacekeeping include: William Durch, Paul Diehl, Page Fortna, Paul Williams, and Alex Bellamy.

international community has an obligation to stop it. A “hands-on” UN may create dependence on outside assistance which may result in loss of local/national ownership. However, if ending the “scourge of war,” protection of civilians (PoC), and peace is the goal, then the UN must recognize its role in long-term assistance of member states since conflicts rarely remain within a single state for long (partly due to rebels using borders as protection, refugee flows, and transnational crime). Legitimacy may not matter an ounce if no one respects the intervening troops; the use of force under a Chapter VII mandate may or may not reduce violence in the short or long-term. I hold, as does Barbara F. Walter, that resolution of the underlying issues is not enough, a negotiated settlement (and peace) can only be found if *credible* guarantees are included in an agreement between parties to the conflict—and this almost always requires outside assistance.⁸⁴

Among the many competing ideas of what makes for peacekeeping success, I define it as protection of civilians and communities from violence in the short-term and sustained peace in the long-term, leading to observable improvements in the broad view of human security.⁸⁵ Although consent, impartiality, legitimacy, ownership, political will, resource commitment, and a responsive UN are all important, not one or a specific combination is either necessary or sufficient to guarantee successful peacekeeping. Therefore, I contend that there are no standard methods to follow in assuring peacekeeping success, only general guidelines that must be constantly reviewed and amended as necessary in order to protect civilians in the short and long-term.

2. Private Security Companies

Private security companies take many forms, from large multinational corporations who provide a vast array of services which include security, to small, local,

⁸⁴ Walter, “Designing Transitions from Civil War,” 129–30.

⁸⁵ See UNDP list of seven threats to human security: Economic security, food security, health security, environmental security, personal security, community security, and political security. United Nations Development Programme (UNDP), *Human Development Report, 1994* (New York: Oxford University Press, 1994), 24–25.

or niche companies who provide specific security services.⁸⁶ Peter Singer, the author of *Corporate Warriors: The Rise of the Privatized Military Industry*, uses a “tip-of-the-spear” typology in his discussion of what he calls “private military firms” (PMFs).⁸⁷ In his typology, the tip is comprised by the firms closest to combat, the military provider firms; the shaft is made up by the military consultant firms; and at the base of the spear are the military support firms.⁸⁸ Deborah Avant, the author of *The Market for Force*, uses the term “PSC” to “denote the whole range of for-profit security companies because it both more aptly describes the range of services these companies provide.”⁸⁹

“Private Security Company” is the term used here, and although there are those who argue that there is a difference between private military companies (PMCs) (a term coined by David Shearer) and PSC, the term PSC covers the vast array of services that a company may provide to include both military and non-military support, as well as armed and unarmed security.

The distinction between PSCs and PMCs may be one of degrees, and while all PMCs may be PSCs, not all PSCs are PMCs. PMCs conduct military operations and training while engaged in or for combat. According to Kevin O’Brien and Doug Brooks, PMCs can be broken down into two types: active and passive.⁹⁰ Active PMCs conduct military operations which often include training, but also may involve contracted agents carrying weapons into combat alongside their newly trained or “in-training” clientele. Both Executive Outcomes and Sandline International conducted training, but also engaged in combat alongside government troops and troops from regional organizations

⁸⁶ David Isenberg presents an excellent overview of the spectrum of PSCs, from the huge multinational firms to the much smaller “niche firms,” to the fraudulent firms such as Custer Battles. Isenberg, *Shadow force : private security contractors in Iraq*: 67–111. Fredland also provides a table which breaks down PSC types, but he notes in his appendix that categorizing firms is very imprecise. Fredland, “Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies,” 207, 17–19. For further discussion on PSCs as multi-million dollar businesses, see William Reno, *Warlord politics and African states* (Boulder: Lynne Rienner Publishers, 1998), particularly ch. 2.

⁸⁷ Singer, *Corporate Warriors*: 91–100.

⁸⁸ Ibid.

⁸⁹ Avant, *The market for force : the consequences of privatizing security*: 1–2.

⁹⁰ Brooks, “Private Military Service Providers: Africa’s Welcome Pariahs..” Brooks thanks Kevin O’Brien in f/n 21 of his article for use of the terms active and passive when describing types of PSCs.

in places such as Sierra Leone and Angola. Passive PMCs do not accompany their clients to the field and do not involve themselves in lethal combat.⁹¹ An example of a passive PMC is MPRI. MPRI conducts consultation and training world-wide and boasts a broad resume of military training services from curriculum development and instructing at ROTC units to training combat soldiers as they did in Croatia and Bosnia.⁹² MPRI claims to have “the greatest corporate assemblage of military expertise in the world” and “more generals per square foot than in the Pentagon.”⁹³

The term “PSC” is also used throughout this dissertation to describe both “active” and “passive” organizations that provide security services for persons, as well as “private and public facilities and operations in high-risk conflict zones.”⁹⁴ This approach combines key features of both Avant and Singer’s definitions.⁹⁵ A PSC provides a range of services covering the full spectrum of Singer’s spear analogy; PSCs rarely remain within Singer’s delineated categories. Most PSCs have separate branches or divisions that take on different tasks, each of which may fall on different parts of the spear, from the tip to the fletching. From this, it can be seen that PSCs are “business organizations that trade in professional services intricately linked to warfare...that specialize in the provision of military skills, including combat operations, strategic planning, intelligence, risk

⁹¹ Ibid., 11.

⁹² It is somewhat ironic that civilian contractors have been used to train soon-to-be active duty military officers on military matters.

⁹³ Lieutenant-General Ed Soyster, retired, MPRI spokesperson. David Shearer and International Institute for Strategic Studies., *Private armies and military intervention*, Adelphi paper, (Oxford ; New York: Oxford University Press for the International Institute for Strategic Studies, 1998), 57; Singer, *Corporate Warriors*: 119.

⁹⁴ Doug Brooks, “Hope for the ‘Hopeless Continent’: Mercenaries,” *Traders: Journal for the Southern African Region* July–October, no. 3 (2000): 2–3.

⁹⁵ Avant, *The market For Force : The Consequences Of Privatizing Security*: 1–2. Avant notes that some argue that PMCs do military tasks and PSCs do policing tasks; however, the range of services that these companies offer defies a single categorization. Singer, *Corporate Warriors*: 8, 91–100. Singer uses the term “Private Military Firm” (PMF). This dissertation will use the term private security contractors (PSCs) to identify those private entities engaged in the provision of the full spectrum of military and security services. Other scholarship has referred to these entities as private military and security companies (PMSCs), private military companies (PMCs), and private military firms (PMF). These different acronyms should be taken as generally synonymous for purposes of this dissertation.

assessment, operational support, training, and technical skills,” not just one or another.⁹⁶ The fact is, many PSCs have gotten so large, that to categorize one of them along Singer’s typology spear would depict limitation where there is none. Some of the larger PSCs have armed security services and capabilities that would rival well-armed military forces. The same companies may also have a logistics wing, aviation services, personal protection services, and training and consulting branches. Although there are many terms to describe and define private security companies, the fact is that most can be considered “firms” and some have military capabilities, but all are private, all have a security component, and all are one form of a company or another. Moreover, in keeping with the theme of human security as a concept essential to gauging the use of PSCs in peacekeeping, Human Rights First’s simple, yet broad definition will be used:

*Human Rights First uses here an essentially functional definition of the term in light of the actual activities of...contractors...with a basic security mission—that is, a core mission to protect people (other than themselves) or things, to include guarding government (and contractors’) facilities, protecting government personnel (and other government contractors) and United Nations (U.N.) and other international organization staff as well, and providing security for convoys.*⁹⁷

Therefore, the term “PSC” is a fitting descriptor for purposes of this dissertation.

Two diagrams show the broad spectrum of operations or tasks that PSCs can undertake, demonstrating that under one company’s roof can be tip of the spear-type military services, while at the other end might be consulting, logistics, or even catering services. The first diagram (Figure 1) has been adapted from a report by Nicholas Dew and Bryan Hudgens and the second adapted from Tim Spicer (former president of Sandline and AEGIS).⁹⁸

⁹⁶ Singer, Peter, *Corporate Warriors*: 8.

⁹⁷ Human Rights First, “Private Security Contractors at War: Ending the Culture of Impunity,” (New York: Human Rights First, 2008), 1. Cited in Nicholas Dew and Bryan Hudgens, “The Evolving Private Military Sector: A Survey” (Monterey: Naval Postgraduate School, 2008), 29.

⁹⁸ Dew and Hudgens, “Evolving Private Military Sector,” 28.

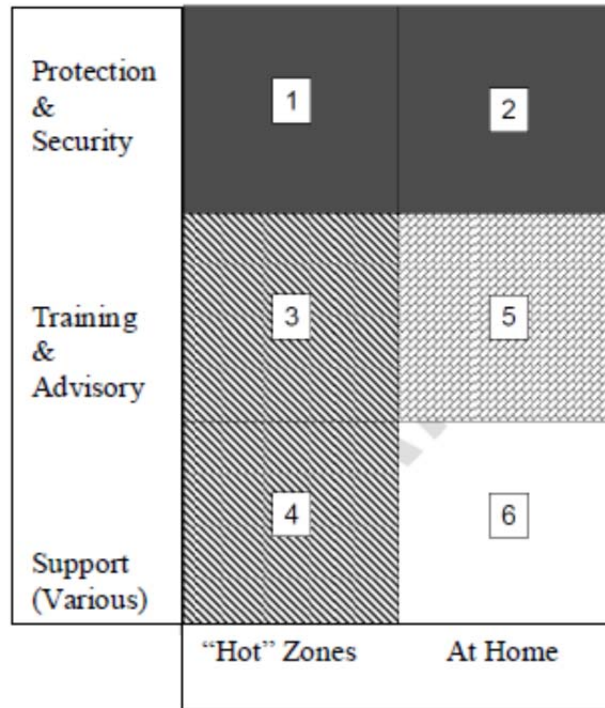


Figure 1. Defining the Private Security Sector⁹⁹

The vertical axis shows *what* activity is taking place, according to Singer’s “tip of the spear” heuristic” and the horizontal axis shows *where* activities are taking place.¹⁰⁰ Although Dew and Hudgens surveyed 550 industry firms representing every sector, this dissertation focuses primarily on the firms that support segment 1; however, as has been pointed out, many companies may have capabilities in all sectors, yet all can be considered PSCs.

Figure 2, adapted from Spicer, illustrates the full spectrum of Sandline’s services—and Sandline was considered somewhat specialized as primarily a private *military* company.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

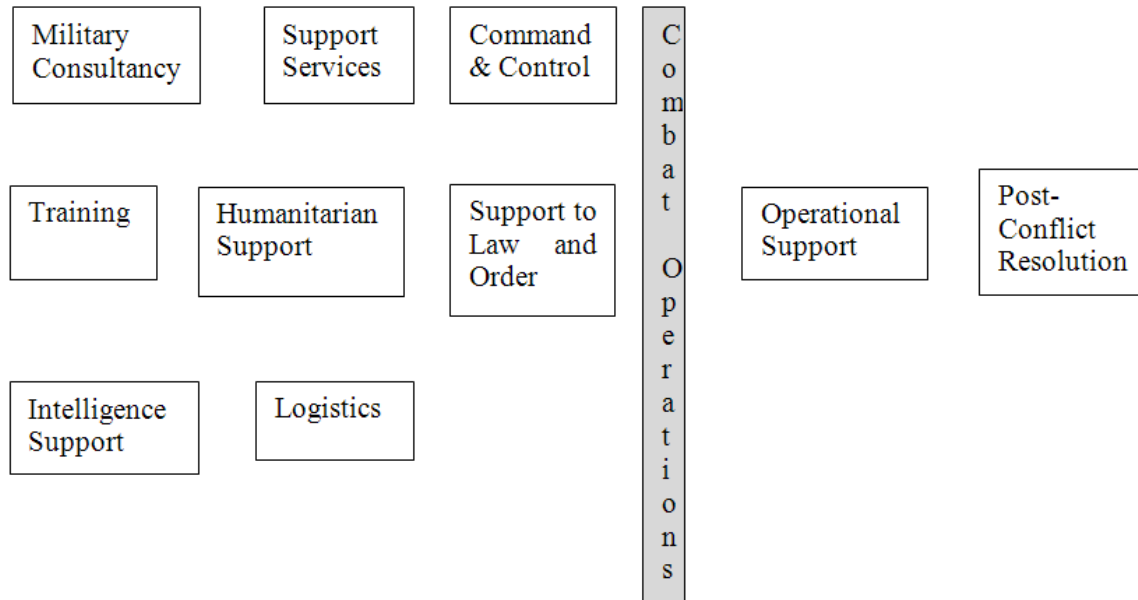


Figure 2. Spectrum of Sandline Services¹⁰¹

Figure notes: Boxes to left are non-combat; boxes to right include combat capabilities. “Support services” includes legal, commercial, public relations and lobbying. “Command and Control”: command, control, communications and intelligence. “Humanitarian Support”: convoy escorts, security for relief organizations, protecting refugees, mine clearance, etc. “Support to Law and Order”: counter-terrorism, anti-piracy, counter-narcotics, kidnap negotiation, hostage release. “Operational Support”: provision of specific experts to act as ‘force multipliers’ to national governments. “Post-Conflict Resolution”: stability force in absence of government troops, separation of warring factions, disarming, integration of warring factions, election monitoring/security, reconstruction, refugee support, etc.¹⁰²

Sandline claimed that the above packages could be used singly, collectively or in any combination. Contemporary PSCs do not make these broad claims, primarily because none of the modern day PSCs offer combat services. However, along with Dew and Hudgens’s diagram, it can be seen that PSCs are not relegated to exclusive positions along a spear, closer to or farther from the battle-space, but may be found on all parts of the spear at once, or they can shift and locate themselves closer to the tip or farther to the rear.

¹⁰¹ Spicer, *An Unorthodox Soldier*: 43.

¹⁰² Ibid.

As noted before, one area that is not represented on the spear, in Dew and Hudgens's or in Spicer's diagram is peacekeeping. This does not mean that peacekeeping has not been considered by both PSCs and the UN; the use of PSCs in peacekeeping is not a new idea. The UN has considered it on numerous occasions.¹⁰³ In fact, "...even former UN Secretary-General Kofi Annan has admitted that, without the use of private forces, the United Nations 'still lacks the capacity to implement rapidly and effectively decisions of the Security Council calling for the dispatch of peacekeeping operations in crisis situations.'"¹⁰⁴ Use of PSCs was also considered in the midst of the Rwanda genocide, but "member states were horrified by the idea."¹⁰⁵ There is a common theme among those supporting the use of PSCs for peacekeeping that the genocide in Rwanda or the ongoing mass atrocities in Congo could have been prevented or stopped, saving millions of lives.¹⁰⁶

The UN has, in fact, hired PSCs to protect their own personnel from violence in the midst of peacekeeping operations on numerous occasions.¹⁰⁷ For instance, just months after the Lomé Peace accords between the RUF and the government of Sierra Leone, the RUF resumed their violent attacks on citizens, public officials, aid workers, and peacekeepers. For their own protection, the UN hired the Lifeguard Services, a PSC. Ironically, it is interesting to note that the UN had "publicly excoriated" EO for its activities in Sierra Leone and elsewhere, yet many employees "shift[ed] back and forth" between EO and Lifeguard while employed protecting UN personnel and offices.¹⁰⁸ The UN currently hires PSCs to perform many functions including aviation and transport,

¹⁰³ Mandel, *Armies without States : The Privatization of Security*: 17.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ See Shearer, "Privatising Protection"; Brooks and Renou, *Peacekeeping or pillage? : private military companies in Africa*; Spicer, *An Unorthodox Soldier*; Barlow, *Executive Outcomes: against all odds*.

¹⁰⁷ Singer, *Corporate Warriors*: 182–87.

¹⁰⁸ Kelly, "Safety at a Price." Cited in Singer, "Humanitarian Principles, Private Military Agents: Implications of the Privatized Military Industry for the Humanitarian Community," 114.

armed and unarmed protection of UN officials, buildings, and equipment.¹⁰⁹ Many of these PSC protective details are performing their missions outside of UN mandated peacekeeping missions, since until the Security Council (SC) authorizes a mission, peacekeepers cannot protect UN assets or personnel performing in a diplomatic or observer role.

Other key issues that arise from UN consideration of hiring PSCs include principal-agent problems, questions of accountability, and concerns over the profit motivations. Principal-agent problems arise from PSCs acting in their own interest and diverging from the scope and intent of the international community, or more specifically, the aims of the contracting group.¹¹⁰ Out of P-A problems arise questions of monitoring and evaluation (M/E). The fewer the M/E personnel assigned, the more likely it is that P-A problems will arise. However, P-A problems and self-interest or questionable profit motivations of UN-sanctioned peacekeepers also exist in the current system. The key differences appear to be legal controls and accountability. PSCs do not have the same institutional standards of conduct and regulatory or legal mechanisms to enforce proper behavior expected of soldiers—"the private military market is effectively unregulated."¹¹¹ As has been noted earlier, some legal scholars hold that the legal and regulatory schema for PSCs is a vast grey area.¹¹² PSC advocates argue that the legal framework is in place at all levels and across the spectrum, from contract law, to corporate law, to criminal and tort law, both nationally and internationally. Those opposed to PSCs' use hold that though there may be laws on the books, it is nearly impossible to regulate PSCs since the laws deal with individual mercenaries rather than companies. They also contend that PSCs often operate in conflict zones or failed states

¹⁰⁹ Smith, "Interview with Adam Smith, Researcher, International Peace Institute"; #1, "Interview with UNDPKO Official #1"; Pingeot, "Interview with Ms. Lou Pingeot, Program Coordinator, Global Policy Forum."

¹¹⁰ Singer, *Corporate Warriors*, 22.

¹¹¹ Peter Singer, "Humanitarian Principles, Private Military Agents: Implications of the Privatized Military Industry for the Humanitarian Community," in *Resetting the Rules of Engagement: Trends and Issues in Military-Humanitarian Relations (Humanitarian Policy Group Report 22)*, ed. Victoria Wheeler and Adele Harmer (London: Humanitarian Policy Group, Overseas Development Institute, 2006), 22.

¹¹² Sheehy, Maogoto, and Newell, *Legal control of the private military corporation*: 110–11.

where rule of law, monitoring, and legal and judicial systems are nonfunctional or tenuous at best.¹¹³ Finally, peacekeepers are held responsible under their national military code of justice, similar to the U.S. Uniform Code of Military Justice (UCMJ), whereas contract employees are accountable only to their firms and the market.¹¹⁴ Some suggest that if PSCs can overcome the accountability threshold and meet standards of conduct equivalent to or better than that of UN-sanctioned peacekeepers, there seems to be little preventing them from performing peacekeeping tasks for the UN.¹¹⁵ However, the use of PSCs for peacekeeping will not come without its difficulties and as Singer points out “...before the international community leaps into the privatization revolution, it would do well also to consider its perils...These challenges are certainly better resolved *before* peacekeeping is turned over to the private market.”¹¹⁶ Legal control, accountability, and regulation of PSCs are covered in greater detail in Chapter V.

B. TYPOLOGIES

1. Peacekeeping, Peacemaking, Peace Building, and Peace Enforcement

Charles Moskos, in his seminal work, *Peace Soldiers*, wrote that “Peacekeeping represents an effort, not immediately to promote the settlement of disputes, but to prevent their degeneration into violent conflicts and thus to restore the possibility that practical settlements may be found.” Peacekeeping is “the containment and retardation of conflict...” not “...resolving the source of conflict.”¹¹⁷ This was written before the

¹¹³ Marina Caparini, “Regulating Private Military and Security Companies: The U.S. Approach,” in *Private Military and Security Companies: Ethics, Policies and Civil-Military Relations*, ed. Deane-Peter Baker Andrew Alexandra, and Marina Caparini (New York: Routledge, 2008), 172; Isenberg, *Shadow force : private security contractors in Iraq*: 127–33.

¹¹⁴ Peter Singer, “Peacekeepers, Inc.,” *Policy Review* Jun/Jul, no. 119 (2003): 67.

¹¹⁵ Shearer and International Institute for Strategic Studies., *Private armies and military intervention*; Christopher Spearin, “Private Security Companies and Humanitarians: A Corporate Solution to Security Humanitarian Spaces?,” *International Peacekeeping* 8, no. 1 (2007); Østensen, “UN Use of Private Military and Security Companies: Practices and Policies”; Bures, “Private Military Companies: A Second Best Peacekeeping Option?”

¹¹⁶ Traci Hukill, “Should Peacekeepers Be Privatized?,” *National Journal* 38, no. 20 (15 May 2004): 1527. Hukill cites Peter Singer in her article.

¹¹⁷ Moskos, *Peace Soldiers : The Sociology Of A United Nations Military Force*: 12.

explosion of intrastate wars and conflicts which developed following the end of the Cold War when almost all peacekeeping missions were observer missions. The increase in conflict worldwide led to an increase in UN involvement and intervention. Chapter VII missions became the norm and resolution of conflicts often meant giving up notions of impartiality for the use of force. Can one charged with protecting civilians be an impartial observer to genocide? The world has changed significantly since the times of bipolar “security,” and as a consequence, so have the roles and missions of peacekeeping.

Peacekeeping is defined many ways by different people or organizations. Within peacekeeping itself there are different distinctions based upon the type of peacekeeping being performed, the state of conflict or resolution, and intent of the parties-in-conflict. There is, however, no definition of peacekeeping within the UN Charter. Peacekeeping is often referred to as “Chapter six-and-a-half” because it falls in between Chapter VI, which is the “peaceful settlement of disputes” and Chapter VII, which is “action with respect to threats to the peace, breaches of the peace, and acts of aggression,” allowing intervention and peace “enforcement.”¹¹⁸ Some of the definitions and distinctions will be briefly discussed here; however, the goal of this section is to select a specific set of peacekeeping terms and definitions and use them throughout the dissertation in order to avoid confusion.

The Cold War was an adversarial period during which the UN was unable to fulfill its original promise of international peace and security.¹¹⁹ There are many reasons why the UN was unable to guarantee international peace and security, but much of it had to do with the fact that there were essentially two superpowers with spheres of influence controlling and intervening as necessary to maintain their hegemonic position. The key was the veto power held by each of the five permanent members of the Security Council—each could veto peacekeeping operations favored by another, and each tended to back opposite sides. With the fall of the Berlin Wall and following the Cold War in

¹¹⁸ Charter of the United Nations, website: <http://www.un.org/en/documents/charter/chapter7.shtml>, accessed 13 September 2011.

¹¹⁹ Boutros Boutros-Ghali, “An Agenda for Peace: Report of the Secretary-General,” (1992).

the early 1990s, the UN expanded its role in world affairs in hopes of achieving the “great objectives of the Charter—a United Nations capable of maintaining international peace and security, of securing justice and human rights and of promoting, in the words of the Charter, ‘social progress and better standards of life in larger freedom.’”¹²⁰ In his seminal report, *An Agenda for Peace*, then Secretary-General Boutros Boutros-Ghali presented recommendations on strengthening the Charter through improvements in preventative diplomacy, peacemaking, and peacekeeping.¹²¹ Boutros-Ghali foresaw the need for multilateral peacekeeping involving multiple, flexible mechanisms for assisting in securing international peace. His vision for the different interconnected roles that the UN would play meshes well with the descriptions provided by Doyle and Sambanis in their book, *Making War and Building Peace*.¹²²

- *Conflict Prevention/Preventive Diplomacy*—generally involves diplomatic preventive measures and is undertaken in order “to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur.” Involving actions such as implementation of confidence-building measures, fact-finding, early warning and “preventive deployment” of UN authorized forces, this stage seeks to reduce the danger of violence and increase the prospects of peaceful settlement.
- *Peace Enforcement*—utilizes the use of force to restore international peace and security. States are authorized to act with or without the consent of the parties in order to ensure compliance with a cease-fire mandated by the Security Council acting under the authority of Chapter VII of the UN Charter. These military forces are composed of heavily armed national forces operating under the direction of the Secretary-General.
- *Peacemaking*—refers to efforts, usually by states, regional organizations, or the UN, to diplomatically bring parties-in-conflict to the negotiation table. Peacemakers can be non-governmental or non-state actors. Drawing upon judicial settlement, mediation, and other forms of negotiation, UN peacemaking initiatives seek to persuade parties to arrive at a peaceful settlement of their differences.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Michael W. Doyle and Nicholas Sambanis, *Making war and building peace : United Nations peace operations*, Princeton paperbacks (Princeton, NJ: Princeton University Press, 2006), 10–11.

- *Peacekeeping*—involves efforts to preserve peace when fighting has stopped, if only temporarily. Peacekeeping includes observation of cease-fires, the separation of armed forces, and the coordination of military, civilian, and security forces to “lay the foundations of sustainable peace.”¹²³ “Peacekeeping” is often used to generically to describe all forms of peacekeeping operations.
- *Postconflict Reconstruction*—organized to foster economic and social cooperation with the purpose of building confidence among previously warring parties, developing the social, political, and economic infrastructure to prevent future violence, and laying the foundations for a durable peace.¹²⁴
- *Peacebuilding*—generally involves post-conflict prevention of relapse into violence or conflict and involves a combination of military and civilian personnel.¹²⁵ Peacebuilding is a “complex, long-term process of creating the necessary conditions for sustainable peace.”¹²⁶ UN has recently adopted the stance that “everything the UN does is peacebuilding.”¹²⁷

Peace enforcement originally fell under “peacemaking” in 1992’s *Agenda for Peace*. However, in the 1995 *Supplement to an Agenda for Peace*, peace enforcement came under its own heading “enforcement action,” indicating the shift to an increased use of peace enforcement by the UN. This shift was a result of lessons learned in the early post-Cold War years and a reinforcement of the belief that enforcement measures would

¹²³ Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 28.

¹²⁴ Doyle and Sambanis point out that “The Secretary-General and the UN often refers to this as ‘post-conflict peacebuilding.’ To avoid confusion with the wider meaning of peacebuilding we employ, we will call it postconflict reconstruction.” Doyle and Sambanis, *Making War and Building Peace : United Nations Peace Operations*.

¹²⁵ Roland Paris, *At War’s End : Building Peace After Civil Conflict* (Cambridge, U.K. ; New York, NY: Cambridge University Press, 2004), 37–38. See also Durch, *Twenty-First-Century Peace Operations*: 8–9.

¹²⁶ Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 19-20, 28-32.

¹²⁷ Smith, “Interview with Adam Smith, Researcher, International Peace Institute.” *Also see* Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 19–20.

become more prolific as conflicts tended to be within States rather than between States, requiring intervention and often with a lack of consent, in pursuit of achieving peace and security objectives.¹²⁸

Peace enforcement is also not a mission of the UN. In the latest *UN Peacekeeping Operations Principles and Guidelines* the UN makes clear that it is “coalitions of the willing” comprised of ad hoc groups of Member States or regional organizations authorized by the Security Council who conduct peace enforcement, not traditional UN “blue helmets.”¹²⁹

Another broader breakdown of peacekeeping categories is termed “generational” peacekeeping, of which there are three “generations.” First generation peacekeeping refers to peacekeeping efforts that the UN undertakes *after* a truce has been reached. Second generation peacekeeping requires consent of the parties of the conflict. Third generation peacekeeping involves intervention and is undertaken by the UN under Chapter VII of the UN Charter; third generation peacekeeping is different from the first two in that it lacks the fundamental principles of consent and neutrality.¹³⁰

Third generation peacekeeping is also known as “quasi-enforcement” peacekeeping and is the most intrusive type of peacekeeping to sovereign states. Another note is that the three “generations” of peacekeeping are not necessarily in chronological order of occurrence. For example, one of the largest “third generation” peacekeeping operations was the UN mission in Congo, ONUC (United Nations Operation in Congo), which took place from July 1960 to June 1964, and occurred well before a number of second generation peacekeeping operations that began primarily at the end of the Cold War.¹³¹

¹²⁸ Boutros Boutros-Ghali, “Supplement to an Agenda for Peace, *Report of the Secretary-General*, 3 January 1995,” (New York: United Nations, 1995).

¹²⁹ Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 43, f/n 20.

¹³⁰ H. McCoubrey and N. D. White, *Blue Helmets : Legal Regulation Of United Nations Military Operations* (Aldershot, Hants, England ; Brookfield USA: Dartmouth, 1996), 6.

¹³¹ United Nations, website: <http://www.un.org/Depts/DPKO/Missions/onuc.htm>, accessed 13 Sept 2011; Doyle and Sambanis, *Making War And Building Peace : United Nations Peace Operations*: 11.

2. Private Security Companies: Scope and Roles

The two largest lobbying groups for private security companies used internationally are the British Association of Private Security Companies (BAPSC) and the International Stability Operations Association (ISOA), previously known as the International Peace Operations Association (IPOA). Both groups represent a large number of private security firms operating internationally in conflict and post-conflict environments as well as all aspects of stabilization, reconstruction, DDR, SSR, and HA/DR. ISOA's self-description is representative of this burgeoning industry's desire to cover all bases when it comes to crisis operations:

*ISOA is a nongovernmental, nonprofit, nonpartisan association of service companies dedicated to providing ethical services to international peacekeeping, peace enforcement, humanitarian rescue, stabilization efforts and disaster relief. Member companies provide critical post-conflict services such as helicopters, heavy lift aviation, mine action, medical services, logistics, disaster relief operations, security sector reform, training, development and humanitarian security. The association was founded to institute industry-wide standards and a code of conduct, maintain sound professional and security practices, educate the public and policy-makers on the stability operation industry's activities and potential, and ensure the humanitarian use of private services in support of international stability operations.*¹³²

As distinct from Private Security Companies (PSCs), Private Military Companies conduct military operations and training while engaged in or for combat. According to Kevin O'Brien and Doug Brooks, both of whom write extensively on PSCs, PMSCs, and PMCs, PMCs can be broken down into two types: active and passive.¹³³ Active PMCs conduct military operations which often include training, but involve contracted agents carrying weapons into combat alongside their newly trained clientele. Both EO and Sandline were active Private Military Companies (PMCs); both are now defunct. Both

¹³² Cited in Doug Brooks, "Beyond Afghanistan and Iraq: The Critical Role of Contractors in International Peace Operations," in *Distinguished Speakers Program*, ed. Indiana Council on World Affairs (ICWA) (ICWA, 2012). Also found on the ISOA website: <http://stability-operations.org/index.php>.

¹³³ Doug Brooks, "Private Military Service Providers: Africa's Welcome Pariahs.." Brooks attributes the original suggestion of active and passive categories to Kevin O'Brien, Deputy Director, ICWA, King's College, London.

EO and Sandline conducted training, but also engaged in combat alongside government-sanctioned troops in places such as Sierra Leone and Angola. Passive PMCs do not accompany their clients to the field and do not involve themselves in lethal combat.¹³⁴ According to Brooks and O'Brien, an example of a passive PMC is MPRI; however, MPRI does not consider itself a PMC, but more of a "Recognized Global Leader in Education, Training, Development and Staffing Solutions."¹³⁵ MPRI seeks training opportunities world-wide and boasts a broad resume of military training services from curriculum development and instructing at ROTC units to training combat soldiers as they did in Croatia and Bosnia.

MPRI claims to have "the greatest corporate assemblage of military expertise in the world" and that it has "more generals per square foot than in the Pentagon."¹³⁶ Based upon its current focus on training, education, and security, MPRI is closer to the definition of the modern PSC, rather than a company focusing its training on combat tactics, techniques, and procedures. MPRI was certainly more closely aligned to the idea of a "passive" PMC in the early nineties when it was responsible for training Croat soldiers for combat with the Serbs. Some argue that without MPRI, the Croatian forces could never have defeated the Serbs as decisively as they did, if at all.¹³⁷ MPRI does not claim responsibility for directly training Croat forces for their successful offensive, "Operation Storm," against the Serbs; however, many argue that there was no way that the Croats could have made the drastic transition that they did without combat training. "No country moves from having a ragtag militia to having a professional military offensive without some help."¹³⁸ MPRI does not conduct security as most PSCs do, but they do conduct security *training*. For all intents and purposes, MPRI is considered a PSC and not a PMC. PMCs, as defined, do not currently exist; this is why, as noted previously

¹³⁴ Ibid., 11.

¹³⁵ L-3 MPRI, "Global Provider of Integrated Training & Security Solutions," www.mpri.com/. Accessed 12 Feb 2012.

¹³⁶ Lieutenant-General Ed Soyster, retired, MPRI spokesperson. Shearer and International Institute for Strategic Studies., *Private Armies And Military Intervention*: 57; Singer, *Corporate Warriors*: 119.

¹³⁷ Singer, *Corporate Warriors*: 124–30.

¹³⁸ Ibid., 126.

in this dissertation, the term PSC is used throughout, except when specifically discussing the now defunct PMCs, e.g. Executive Outcomes or Sandline International.

3. Who Else Does Peacekeeping?

*“Peacekeeping is not a job for soldiers, but only soldiers can do it.”*¹³⁹

Former UNSG Dag Hammarskjöld

*“Carrying out civil administration and police functions is...going to degrade the American capability to do the things America has to do. We don’t need to have the 82nd Airborne escorting kids to kindergarten.”*¹⁴⁰

Former U.S. Secretary of State Condoleeza Rice

a. Regional Organizations and States

There are positive and negative aspects to relying upon regional organizations or individual states as opposed to the UN for many humanitarian and peacekeeping missions. Specifically, in many cases, regional organizations and states have more autonomy and flexibility than the UN in enforcing mandates or agreements because they do not generally have the same scope of international accountability that the UN has. On the other hand, however, regional organizations and states often accomplish their mission through tougher means than UN peacekeepers might employ; they may also be less impartial and neutrality could be called into question.

In the case of Nigerians bringing order to Sierra Leone under the provision of an Economic Community of West African States (ECOWAS) mandate for the

¹³⁹ Found at the top of the chapter on peacekeeping (Ch. 4) in the U.S. Army Field Manual, FM 100–20/AFP 3–20, Military Operations in Low Intensity Conflict, this quote is ubiquitous throughout the peacekeeping literature, but is generally attributable to former UNSG Dag Hammarskjöld.

¹⁴⁰ “Soldiers are sometimes charged with tasks that would normally be done by civilians. Whether this is appropriate is always open to question.” Condoleeza Rice made this statement in 2000 with regard to Kosovo. Sami Faltas and Wolf-Christian Paes, “Not Only A Job For Soldiers,” in *People Building Peace II: Successful Stories of Civil Society*, ed. Malin Brenk Paul van Tongeren, Marte Hellema, and Juliette Verhoeven (Boulder: Lynne Rienner, 2005), 3.

ECOWAS Cease-Fire Monitoring Group (ECOMOG), Michael Hirsh notes that, “The last time the Nigerians intervened in that conflict, they occupied Freetown with 10,000 troops while ceding the rebels free run of the countryside—and the diamond trade. But whatever their methods, Nigerians did manage to stop the killing and limb-hacking.”¹⁴¹ Hirsch argues that regional organizations are a necessary, but not the best, alternative to doing nothing, or worse, attempting to take action that only leads to further abuses.¹⁴² He cites underfunding of the UN by the United States, slow response, and fear of potential embarrassment to the UN or major powers like the UK (or the United States) through human rights abuses as the primary reasons for inaction in conflict zones or areas of instability.¹⁴³ The UN’s inability or unwillingness to provide support in light of failures or loss of credibility are typified by missions such as the UN in Bosnia, Sri Lanka, Somalia, and initially in East Timor¹⁴⁴ and Sierra Leone, as well as the UN and United States’ responses in Rwanda.¹⁴⁵ Regional organizations and local states can often succeed where major powers or the UN are unable or unwilling to act.

There is another aspect to states’ and regional organizations’ ability to resolve conflicts more effectively than the UN alone: They have more at stake. Nearby states and regions have an interest in reducing conflict because it (or refugees) can often spill over borders. Hettne and Söderbaum write that actors like the European Union (EU), the Association of Southeast Asian Nations (ASEAN), and the Southern African Development Community (SADC) are “more efficient than multilateral mechanisms in

¹⁴¹ Michael Hirsch, “Calling All Regio-Cops: Peacekeeping’s Hybrid Future,” *Foreign Affairs* 79, no. 6 (December, 2000): 7.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid., 2. Although the UN’s mission was in East Timor, the relief office was in West Timor, where the bodies of three UN relief workers were burned in the streets, forcing the UN to quickly evacuate personnel from the region.

¹⁴⁵ Ibid., 8. Response was much delayed and initially too insubstantial to make a difference. For a list of success and failures, see also Stedman, Rothchild, and Cousens, *Ending civil wars : the implementation of peace agreements*: 59.

terms of closeness and commitment,”¹⁴⁶ and that, “[t]he region has to live with the consequences of unresolved conflicts and cannot simply withdraw from the conflict.”¹⁴⁷ Though it may be true that ROs are more affected by conflicts in neighboring states, ROs often do not have the resources that the UN has for long-term intervention. In an ideal situation, ROs and the UN work together to find the best mix of support when intervention becomes necessary.

Despite the fact that the use of ROs can garner a sort of regional ownership of problems, the UN also has an interest in regional organizations taking on a share of the peacekeeping burden because it defrays costs from the UN budget. In an interview with Major General Cammaert, he mentioned that not only does it cost the UN less to help support regional troops on peacekeeping missions than assuming the missions themselves, but he noted that regional organizations are usually closer, and therefore, quicker to respond when crises occur in neighboring states.¹⁴⁸

Aside from the cost issue, Article 52 of the Charter calls for regional organizations to be the first choice before referring crises to the Security Council. Specifically, “The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.”¹⁴⁹ This can also allow the UN to concentrate on crises where ROs or states may not be able to assist or are hesitant to send troops.

¹⁴⁶ Björn Hettne and Fredrik Söderbaum, “The UN and Regional Organizations in Global Security: Competing or Complementary Logics,” *Global Governance*, Vol. 12, 3 (July-September 2006), pp. 227–232, 230.

¹⁴⁷ Ibid.

¹⁴⁸ Interview with Major General Cammaert, 10-12 May 2012.

¹⁴⁹ United Nations. and Hague. International Court of Justice., *Charter of the United Nations and Statute of the International Court of Justice* (San Francisco 1945).

b. Choosing the Peacekeepers

Dress, think, talk, act and behave in a manner befitting the dignity of a disciplined, caring, considerate, mature, respected and trusted soldier, displaying the highest integrity and impartiality. Have pride in your position as a peace-keeper and do not abuse or misuse your authority.

Rule #1—Ten Rules: Code of Personal Conduct for Blue Helmets¹⁵⁰

When regional organizations cannot or will not undertake peacekeeping missions, the UN must garner the will of the Security Council to approve peacekeeping operations. UN peacekeepers are comprised of those soldiers selected by their countries to represent them in missions throughout the world. Soldiers chosen for peacekeeping are today quite different from their Cold-war counterparts, or at least the missions for which they are now used are substantially different, and thus, their training regimen and decision-making with regard to the use of force is by necessity very different. During the Cold-war, the majority of peacekeeping missions were observer missions. Peacekeepers involved in observer missions rarely had the authority to use force and often did not even carry weapons. The strategic context in which the UN had been operating had dramatically changed following the Cold War. Conflicts were no longer between states, but internal to them, and now constitute the “vast majority of today’s wars.”¹⁵¹ It was only after abject failures in places like Angola or Sierra Leone in the nineties that the UN found itself in a quandary: continue to treat all parties to the conflict as equals (maintaining impartiality and allowing aggressors to their violent self-interests against agreements or peace treaties), or pick sides and use force to deter aggressors and offenses against persons party to the agreement. Kofi Annan addressed this issue in a speech he gave to the Ditchley Foundation in which he noted the shift in the progression of violence from combatants toward non-combatants over the past century.¹⁵² Where violence was

¹⁵⁰ United Nations, “Ten Rules: Code of Personal Conduct for Blue Helmets,” United Nations Conduct and Discipline Unit.
<http://cdu.unlb.org/UNStandardsOfConduct/TenRulesCodeOfPersonalConductForBlueHelmets.aspx>, website, accessed 28 July 2012.

¹⁵¹ Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 21.

¹⁵² Kofi Annan, “Intervention” (paper presented at the The Ditchley Foundation Annual Conference, Oxfordshire, 26 June 1998).

predominantly soldier-on-soldier in wars such as WWI and WWII, civilians have increasingly become the primary targets. This shift has required the UN to take a more proactive role in protecting civilians. As Annan pointed out, “Our job *is* to intervene: to prevent conflict where we can, to put a stop to it when it has broken out, or—when neither of those things is possible—at least to contain it and prevent it from spreading.”¹⁵³

During the Cold War, peacekeepers were, as Charles Moskos discussed, those soldiers who were “most likely to display restraint and impartiality when charged with peacekeeping assignments...Put in another way, the political-military milieu of the contributing nation has a strong bearing on the propensity to use force on the part of the nation’s soldiers.”¹⁵⁴ Consequently, and contrary to the training requirements of today’s peacekeepers, who need to be well versed in the use of offensive tactics and weaponry, the Cold-war peacekeeper required “such traits as the avoidance of violence, quiescent monitoring, negotiation, and compromise.”¹⁵⁵ No longer is Moskos’s model the standard. Today’s peacekeeper is required to have all the traits of the Cold-war peacekeeper when she needs to use those traits, but also the traits of a tactical soldier, well-versed in rules of engagement, force protection, small arms and weapons employment, and acceptance of violence as an occasional but necessary evil in order to enforce or maintain the peace.

The peacekeeper of today exists in a vastly different world from the peacekeeper of yesterday. As Annan notes, “Human suffering on a large scale has become impossible to keep quiet. People in far-off countries not only hear about it, but often see it on their TV screens.”¹⁵⁶ News travels more quickly which means that atrocities, human rights abuses, and conflict can be more quickly discovered and responded to, but it also means that there is a chance that much of that which is

¹⁵³ Ibid., 2.

¹⁵⁴ Moskos, *Peace Soldiers : The Sociology Of A United Nations Military Force*: 8–9.

¹⁵⁵ Ibid., 9.

¹⁵⁶ Annan, “Intervention,” 3.

discovered can get lost in the white noise of conflict worldwide. Public outcry can spur states and the UN to action, but as is often the case, the “squeaky wheel gets the grease.” The problem with this notion is two-fold: First, although the squeaky wheel may get the grease, there are many “squeaky wheels” and the many that do not get the “grease” can quickly add up; and second, self-interest, foreign policy objectives, and political motivations may also determine where the “grease” is applied. With regards to the former, the number of peacekeepers available for deployment by the UN at any given time is extremely limited. Without careful consideration of circumstances and follow-on effects, insufficient forces or resources can fail to produce intended results, or worse, as in the case of Sierra Leone, allow the situation to devolve so drastically that hundreds or thousands of civilians are left with little or no security. In the latter case, when states are unable to identify situations critical to self-interest or marry foreign policy objectives to actions, the will to send troops or even lend support to interventions can be absent. Moreover, support for certain interventions, such as the U.S. intervention in Somalia, can have severe negative political effects. In both cases, early diplomatic intervention and thorough analysis by competent observers can serve to better communicate to states the ramifications of involvement, or worse, inaction.

The consequences of inaction are also no longer limited to within bipolar spheres of influence. Porous borders, transnational crime, refugees, and terrorism have broader effects and deeper implications than ever before. Improperly recognizing the fallout or repercussions of a specific conflict can lead to increased violence and cross-border flows which can give rise to new conflicts. “In many cases, the conflict eventually becomes so dangerous that the international community finds itself *obliged* to intervene. By then it can only do so in the most intrusive and expensive way, which is military intervention.” Expansion of conflict, until quelled by robust and costly intervention by the international community, is what occurred in such places as Angola which spilled over into Sierra Leone, Nicaragua into El Salvador, and within different parts of the former Yugoslavia.

Once the decision is made by the Security Council to intervene, necessary support has to be garnered. This is where selection of peacekeeping forces comes into

play. The Security Council does not necessarily decide which nation's troops will be used and how they will be employed. The host nation can reject troops, or expel them after they are already in country, as recently happened in Sudan in spring 2011 when Khartoum kicked all but a few of the UN peacekeeping troops out of the country. "Peacekeeping missions are 'hosted' by the nation in trouble, not imposed by the UN. Whom [sic] and which 'nationalities' form part of the PK Force is entirely up to the host nation."¹⁵⁷

On the other side of this coin is the fact that nations can decide whether they want to send their troops for certain peacekeeping missions. For example, according to former Ambassador and UN Mediator and Co-chairman of the International Conference on the former Yugoslavia (ICFY), Thorvald Stoltenberg, the only countries willing to send combat forces to protect the civilian population and prevent further atrocities during the war in Bosnia and Herzegovina were Turkey and Iran. Even though prevailing moral opinion held that *something* should be done, "the decision to risk lives is left to national governments—to the nation state—rather than to moral attitudes."¹⁵⁸ An offensive enforcement operation under Chapter VII may be approved by the Security Council, but states are under no obligation to send their troops as peacekeepers.

In the case of the former Yugoslavia,

American and German politicians were in the forefront of demanding more military actions while they had not a single young woman or man as a UN soldier on the ground. The French and the British were called cowards. But they had thousands of their own people there. That's why I hope that, in the future, members of the Security Council will be obliged to provide personnel for UN peacekeeping operations.

¹⁵⁷ LTC Jose Guillermo Rosa, Military Staff Committee, U.S. Mission to the UN, Email, 24 February 2012.

¹⁵⁸ Wolfgang Biermann, "From Stoltenberg–Owen to Dayton: Interview with Thorvald Stoltenberg about Peacekeeping Principles, Politics and Diplomacy," in *UN Peacekeeping in Trouble: Lessons Learned from the Former Yugoslavia*, ed. Wolfgang Biermann and Martin Vadset (Aldershot: Ashgate, 1998).

*When you have personnel on the ground, your statements as a politician are much more balanced and responsible than when you do not have your own people on the ground and can afford 'courage' on behalf of other people, other nations' young people.*¹⁵⁹

What does this say about the effectiveness of the UN in carrying out SC-approved action? It is up to member states to support the decisions of the SC, and when they cannot, or choose not to, then states needing assistance, and especially their vulnerable populations, are left without international protection—without human security.

Swanee Hunt, the former U.S. Ambassador to Austria during the Bosnian war, and author of a recent book, *“Worlds Apart: Bosnian Lessons for Global Security,”* states that fault has to be found when no one does anything.¹⁶⁰ In an interview, she commented, “There was all of this business about, ‘Well, we have to be even-handed here, we have to be neutral,’ forgetting that neutrality in the face of evil is complicity...We had some evil, some serious evil going on.” Both Ambassador Hunt and Wesley Clark, former Supreme Allied Commander of NATO, talk about the failure of NATO to intervene, especially since it was evident who was committing the atrocities in Bosnia and force was the only way to stop them.¹⁶¹ The UN and NATO certainly had responsibility to act more quickly to prevent the massive loss of life that occurred. If states were not willing to provide the troops and equipment, was there another way? Is there another way?

¹⁵⁹ Ibid., 7.

¹⁶⁰ Swanee Hunt, *Worlds Apart : Bosnian Lessons For Global Security* (Durham: Duke University Press, 2011).

¹⁶¹ Ibid. Pim Valdre, “Interview with Swanee Hunt, Former Ambassador and Author of New Book on Bosnia,” *Global Observatory* 2 May 2012.
<http://www.theglobalobservatory.org/component/myblog/interview-with-swanee-hunt-former-ambassador-and-author-of-new-book-on-bosnia/blogger/Pim%20Valdre/>

C. CURRENT PEACEKEEPING: UNITED NATIONS, REGIONAL ORGANIZATIONS, AND STATES

*Building peace means helping national institutions reach a point where they are able to maintain a sufficient level of stability and security, in particular through respect for the rule of law and human rights. Strong national ownership and leadership in the formulation of peacebuilding priorities is essential.*¹⁶²

Hervé Ladsous

The United Nations is currently involved in 16 peacekeeping operations (and one special political mission (UNAMA) in Afghanistan) across four continents, led and managed through the Department of Peacekeeping Operations (DPKO).¹⁶³ These operations involve more than 120,000 men and women serving as peacekeeping troops from more than 115 countries.¹⁶⁴ Because of their long record of multinational involvement, the UN has the legitimacy to act as a principal actor in matters of conflict and dispute.¹⁶⁵ The UN is, fundamentally, an organization which claims peace as its world goal. “The United Nations was founded, in the words of its Charter, in order ‘to save succeeding generations from the scourge of war.’”¹⁶⁶ Although the UN has made many mistakes in different humanitarian assistance missions, including all aspects of

¹⁶² *Under-Secretary-General for Peacekeeping Operations, Hervé Ladsous, in his remarks to a Council meeting on peacekeeping and its role in peacebuilding.* UN News Centre, “UN officials stress national ownership and partnerships for successful peacebuilding,” United Nations, <http://www.un.org/apps/news/story.asp?NewsID=41645&Cr=peacekeeping&Cr1=>&Cr=peacekeeping&Cr1=>. Council meeting on peacekeeping: <http://www.un.org/News/Press/docs/2012/sc10591.doc.htm>, accessed 27 March 2012.

¹⁶³ Sixteen peacekeeping operations, plus a seventeenth special political mission (UNAMA) in Afghanistan. United Nations Department of Peacekeeping Operations (UNDPKO), “Current Peacekeeping Operations,” United Nations, <http://www.un.org/en/peacekeeping/operations/current.shtml>. website, <http://www.un.org/en/peacekeeping/operations/current.shtml>, accessed 12 July 2012.

¹⁶⁴ Ibid.

¹⁶⁵ Eric Heinze, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention* (Albany, NY: SUNY Press, 2009). Heinze argues that multilateralism can be one method of security legitimacy. For a broader discussion on legitimacy, see Chapter IV of this dissertation.

¹⁶⁶ United Nations, “Report of the Panel on United Nations Peace Operations: A far-reaching report by an independent panel,” Executive Summary, website: http://www.un.org/peace/reports/peace_operations/docs/summary.htm, accessed 13 Aug 2010, 1. Report discusses recent failures and problems the UN has encountered in its various missions worldwide, including SEA and failures in the protection of civilians.

peacekeeping,¹⁶⁷ it still retains the primacy of international recognition and legitimacy. Moreover, both states and conflicting factions within states often seek out UN assistance or approval for their actions. First, through the UN, they can often add credibility to their cause. Second, they may acquire international approval and support or resources. Third, they may find or gain the approval of coalition partners, as the United States attempted to do prior to the invasion of Iraq. Finally, the UN does not carry with it the same perceived stigma that other states (or their armed forces) or regional actors carry with them. One of the problems, however, is that in order for the UN to maintain its credibility, especially in cases where it must use force, it must continue to garner the necessary political will by member states to “support the United Nations politically, financially and operationally.”¹⁶⁸ Despite the increase in interventions and “robust” peacekeeping, Adam Smith of the International Peace Institute told me in an interview, “There is something to be said for the backing of 193 countries. The blue helmet means something in terms of legitimacy.”¹⁶⁹

Other actors, such as regional organizations, often carry with them questions of bias or motivation affecting perceptions of neutrality and impartiality. For example, Nigerian troops made up the majority of the regional organization ECOWAS’s troops under ECOMOG in Sierra Leone; allegations were made that because of underlying hostilities between Nigerians and Liberians (many of the RUF were operating either covertly or overtly for Liberia), the Nigerians were exceptionally cruel to RUF soldiers, deepening and exacerbating the conflict. In cases of other-than-UN forces, the question of motive can be problematic because: 1) regional organizations can be seen as imposing

¹⁶⁷ Includes peacekeeping, peace-building, and peace enforcement missions.

¹⁶⁸ UN “Report on Peace Operations,” 1. UN Chapter VII missions and the use of force, balanced with impartiality, have brought renewed problems for the UN and its legitimacy, especially when one side may be violating the terms of the mandate; as the cited text notes, “No failure did more to damage the standing and credibility of United Nations peacekeeping in the 1990s than its reluctance to distinguish victim from aggressor.”

¹⁶⁹ Smith, “Interview with Adam Smith, Researcher, International Peace Institute.” The term “robust” peacekeeping also comes with its problems since “robust” peacekeeping can mean many things from Ch. VII, or enforcement missions, to increases in the use of force to prosecute violent aggressors. “Robust” peacekeeping can also include the idea of pre-emptive defense, that is, offensive operations that are used to stop aggressors before they act in order to ultimately protect civilians from harm.

their collective sovereignty over others in order to achieve some gain, whether it be trade relations, concessions, or other geo-strategic interests; or 2) states, especially powerful ones, can be seen as geopolitically, strategically, or resource motivated.

In the case of PSCs, their involvement can be seen as motivated only by profits or greed, or worse, extending war for private gain.¹⁷⁰ Consequently, private militaries and PSC personnel have often been referred to as “mercenaries,” which has been a difficult label to shake in light of the international attention that abuses by PSCs have garnered.

Given that the UN is not the only organization conducting peacekeeping and that different actors can achieve differing results; there are certain conditions which can lead to success or failure in peacekeeping. The next chapter will discuss some of those conditions which can lead to either peacekeeping success or failure.

D. PEACEKEEPING CONDITIONS FOR SUCCESS

*It is a truism that the success of a peace operation depends not only on the security dimension, but also on the aspects of democracy, governance, economy and development.*¹⁷¹

*The military resources needed to help keep the peace are being strained by so much peace to keep.*¹⁷²

1. Conditions for Success

Peacekeeping success can be defined in the near term or the long term. Stopping violence can be considered a peacekeeping success, but not a mission success. Mission success can be determined upon completion of a peacekeeping mandate (or, as it were, because of it), but if violence breaks out three months later, does it still qualify as peacekeeping success? This question has been answered differently by a wide group of

¹⁷⁰ James A. Tyner, *The business of war : workers, warriors and hostages in occupied Iraq* (Aldershot, England ; Burlington, VT: Ashgate Pub., 2006), 18; Mandel, *Armies without states : the privatization of security*: 9–14.

¹⁷¹ Phenyio Rakate Mark Malan, and Angela McIntyre, *Peacekeeping in Sierra Leone: UNAMSIL Hits the Home Straight*, vol. 68, ISS Monograph Series (Pretoria: Institute for Security Studies, January 2002), 11.

¹⁷² Jean-Marie Guéhenno, “A Plan to Strengthen UN Peacekeeping,” *International Herald Tribune*, 19 April 2004.

scholars, diplomats, politicians, contractors, armed forces, and field operators. I have not, however, in my research found many responses or discussions from the “peacekept.” This section will discuss different definitions of peacekeeping success, and at the end will discuss one point of view from the peacekept.

There appear to be two general views on success in peacekeeping and how to achieve it. One view holds that the underlying causes of conflict must be resolved before peace operations can be considered successful. The other view holds that peacekeeping is successful when conflict has stopped, the mandate is fulfilled, and states are left capable of dealing with the causes of conflict on their own. From these two general propositions, a number of determinations and prescriptions for peacekeeping success can be found. Specifically, Lisa Morjé Howard claims that the following three conditions must be in place for a peacekeeping mission to be successful: consent of the parties that they want to stop fighting; interest and consensus of the Security Council; and that the UN Secretariat be a “learning organization.”¹⁷³

Stephen Stedman writes that there are three categories of outcome, all determined by the ending or continuation of conflict: first, in cases such as Rwanda, Somalia or Sri Lanka (coded as failures), peacekeepers could not stop large-scale violence; second, in cases like Bosnia (coded as a partial success), peacekeepers could not leave without fear that the war would restart; and finally, there were the cases such as El Salvador, Mozambique, and Nicaragua (coded as successes) where peacekeepers were able to leave without violence restarting.¹⁷⁴ International participation and support for implementing the peace, especially by major or regional powers, were key to successful peace implementation.¹⁷⁵ Stedman notes, however, that these conditions may have as little to do with the UN or peacekeeping force as with the conflict itself. The counterfactual

¹⁷³ Howard, *UN peacekeeping in civil wars*, Chapter 1.

¹⁷⁴ Stedman, Rothchild, and Cousens, *Ending civil wars : the implementation of peace agreements*; Howard, *UN peacekeeping in civil wars*. It is important to note that although the operations in El Salvador and Nicaragua were coded as successes by Howard, crime, drug, and gang violence within both countries burgeoned after peacekeeper departure.

¹⁷⁵ Summarized in Durch, *Twenty-first-century peace operations*: 16; Stedman, Rothchild, and Cousens, *Ending civil wars : the implementation of peace agreements*: 57–58.

arguments may be that the war would have ended anyway or that peacekeeping forces delayed inevitable resumption of conflict, and therefore, prolonged misery and violence. He goes on to discuss the fact that institutional effectiveness as well as mission type, mission difficulty, and environment play large roles in determinants of success or failure and are difficult to measure.¹⁷⁶

William Durch, however, argues that the underlying causes of conflict must be resolved before real peace can begin to realize success.¹⁷⁷ Only when these underlying causes are understood and addressed does Durch find that peacekeeping can begin to make headway.¹⁷⁸ He believes that identifying sources of “situational difficulty” is essential and that the two factors “most important to sustainable peace appeared to be the willingness of neighboring states to support the peace process, and the willingness of all faction leaders to compromise in the interest of peace, at the risk of losing power.”¹⁷⁹

Bellamy and Williams hold that prevention mechanisms are fundamental to preventing conflict and implementing peace. They do not believe that further analysis of conflict prevention and additional theories are necessary, but that increased capabilities and methods of identifying conflict before it starts and getting the international community to take action early are most important.¹⁸⁰ Early warning indicators to identify when outbreaks of violent conflict are imminent should be met by robust, and what they call “thick,” prevention instead of the “thin” engagement which was evidenced by and allowed the genocide in Rwanda to occur.¹⁸¹ The UN response was slow, and international support and political will were weak. The warning signs were there but they were, by and large, ignored until it was too late.

¹⁷⁶ Stedman, Steven, *Ending Civil Wars : The Implementation Of Peace Agreements*: 53–69.

¹⁷⁷ Durch, *Twenty-First-Century Peace Operations*. This view is contradicted by Walter, *see* Walter, “Designing Transitions from Civil War.”

¹⁷⁸ Durch, *Twenty-First-Century Peace Operations*, 27–28.

¹⁷⁹ *Ibid.*, 15.

¹⁸⁰ Bellamy, Williams, and Griffin, *Understanding Peacekeeping*, 268.

¹⁸¹ *Ibid.*

Doyle and Sambanis contend that sustainable peace is made through embedding “external controls, such as democracy and the rule of law, and internal controls, such as power sharing and judicial reform, into effective peace settlements.”¹⁸² Initial peace in conflict situations, especially those requiring intervention, is achieved through a careful mixture of “consent and coercion.” Consent is necessary but not enough because there are usually unstable factions or spoilers intent on gaining more than their share through “fear, looting, prestige, fostering conflict.”¹⁸³ Coercion is often necessary to protect adherents to the agreement, civilians, and peacekeepers. In some cases the perception of coercive capability is sufficient to counter would-be spoilers or aggression. It was clear to the Serbs that the Dutch peacekeepers protecting the “safe havens” in Srebrenica did not have the coercive capability, nor did they have the mandate, to actually protect the civilians. Doyle and Sambanis conclude that there are three critical dimensions of successful peacekeeping; they call these their “peacekeeping triangle.” The triangle is made up of 1) sources of unity that the UN can tap into; 2) local capacity which sustains economic growth and security; and 3) sufficient long-term international capacity and support that can make up for what post-conflict states lack in unity or capacity.¹⁸⁴

Lastly, the UN has also established “criteria” for successful peacekeeping (Figure 3):

¹⁸² Doyle and Sambanis, *Making War And Building Peac : United Nations Peace Operations*: 197.

¹⁸³ Ibid., 198.

¹⁸⁴ Ibid., 335.

What are the “Criteria” for Successful Deployment?

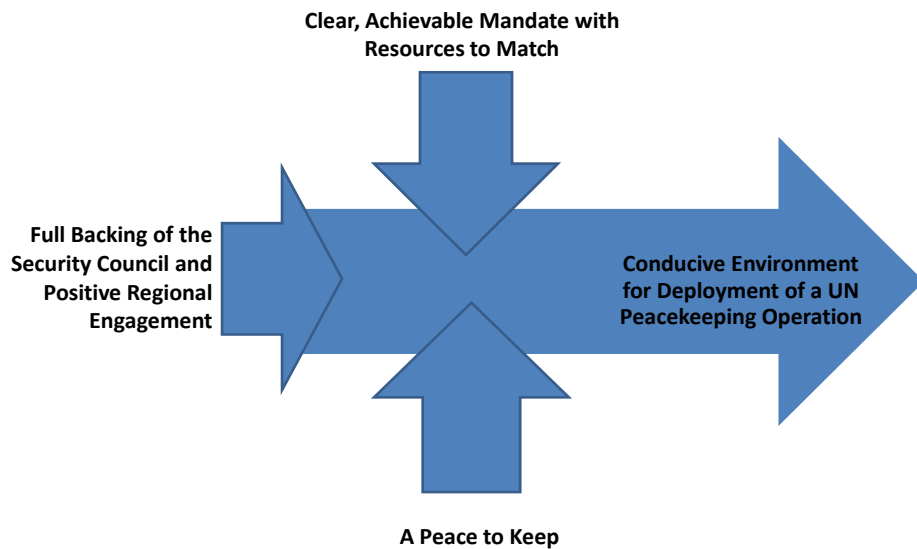


Figure 3. Criteria for Successful Peacekeeping.¹⁸⁵

This simplified diagram assumes that the fundamental principles of UN peacekeeping, i.e., consent, impartiality, and use of force only in self-defense are met and understood. Unfortunately, in too many recent cases, robust peacekeeping often entails lack of consent and use of force beyond self-defense. As a consequence, in order to protect civilians, although impartiality can be maintained, neutrality has to be cast aside. Stopping aggressors and sustaining protection of civilians (PoC) is a core of the UN’s mission. As Major-General Cammaert, a former Division Commander for MONUC, stated, “The world will judge the UN on its ability to protect civilians.”¹⁸⁶ As has been evident since the end of the Cold War, the majority of wars occur within states and are increasingly waged against civilians. Peacekeeping success will ultimately be determined by whether or not civilians and communities are sustainably protected.

¹⁸⁵ Adapted from Initiative, “Principles of UN Peacekeeping,” 19-20, 28-32.

¹⁸⁶ Major-General Patrick Cammaert (Ret.), “Protection of Civilians and the Use of Force,” in *Peacekeeping Operations Contingent Commanders’ Course*, ed. Global Peace Operations Initiative (Monterey: Center for Civil-Military Relations, 15 May 2012).

2. Conditions for Failure

The mission in Sierra Leone was a turning point for the UN and peacekeeping missions. Early abject failure by the UN to act as it ultimately did, prolonged war beyond what could have been a much more expedient conclusion. Over a period of ten years of civil war in Sierra Leone, some estimated 2.5 million people were forced to become refugees or were internally displaced, 70,000 were killed, 27,000 children were impressed into service as soldiers, and 20,000 people were maimed primarily through violent amputation.¹⁸⁷ The incoherent strategy of the UN, the government of Sierra Leone (GoSL), and regional forces protracted the war and allowed the conflict to continue until British intervention, following which the UN reversed course and delivered sufficient peacekeeping troops and international support.¹⁸⁸ Similar to Bellamy and Williams' argument, that proactive and early engagement is key, David Keen holds that diplomacy and coordination could have worked before companies such as Executive Outcomes or Sandline International were brought in to fight the RUF rebels in Sierra Leone.¹⁸⁹

Part of the problem has been that in many cases, neither the UN nor regional actors want to get involved in other states' affairs. Unfortunately it oftentimes takes extreme events, such as atrocities on a massive scale, to get other states to agree to intervene. Former U.S. Ambassador to Sierra Leone and IPI Senior Adviser John Hirsch,

¹⁸⁷ Mark Malan, *Peacekeeping in Sierra Leone: UNAMSIL Hits the Home Straight*, 68: 13.

¹⁸⁸ This view is held by former Secretary-General Kofi Annan, as well as many scholars in analysis of UNOMSIL and the eventual success of UNAMSIL. *See for example*, Kofi Annan, "Report of the Secretary-General on Sierra Leone," in *United Nations Security Council Report* (New York: United Nations, 26 January 1997); Kofi A. Annan, "Podium: Impartiality does not mean neutrality" - from a speech to the Council on Foreign Relations in New York," *The Independent* 1999; Annan, "Intervention.," Victoria K. Holt William Durch, Caroline R. Earle, and Moira K. Shanahan, "The Brahimi Report and the Future of UN Peace Operations," ed. William K. Durch (Washington, DC: The Henry L. Stimson Center, 2003); Eric G. Berman and Melissa T. Labonte, "Sierra Leone," in *Twenty-First-Century Peace Operations*, ed. William J. Durch (Washington, DC: United States Institute of Peace and the Henry L. Stimson Center, 2006); David Keen, *Conflict & collusion in Sierra Leone*, ed. International Peace Academy (Oxford & New York: J. Currey; Palgrave, 2005).

¹⁸⁹ Keen, *Conflict & collusion in Sierra Leone*; Bellamy, Williams, and Griffin, *Understanding Peacekeeping*.

commented in a recent interview that “What I remember about that period was that it was very, very hard to get the attention of the international community.”¹⁹⁰

So, while failure of the UN to act during the first ten years of Sierra Leone’s brutal civil war resulted in as many as 70,000 dead and many more wounded or mutilated, once robust engagement was supported, Sierra Leone was relatively quickly made safe for its civilian population who were the primary target of the RUF. Robust engagement and the use of peace enforcement by the British marked a turning point in the UN’s method of effecting peace. Although the UN itself does not conduct peace enforcement, it is the Security Council who authorizes the use of peace enforcement by “coalitions of the willing.”¹⁹¹ As Sierra Leone had previously been a British colony, it is argued that the UK felt a sense of responsibility to act to restore order and so provided a contingent of British troops to do just that. It was two peace enforcement missions conducted by the British and Indian special forces that effectively ended the RUF siege and provided the catalyst for the peace agreements that ended the war. Sierra Leone remains a stable state to this day, and is in fact thriving with a major part of its economy based upon a “clean,” as opposed to “blood” diamond industry.

Failure of the international community to act early enough was also clearly evident in both Bosnia and Rwanda. Neither NATO nor the UN took a strong enough stance against the human rights abuses and atrocities that were occurring until it was too late. In Bosnia more than 8,000 Muslim men and boys were murdered while supposedly protected in UN safe havens. Murder of civilians occurred in Rwanda while there was a UN presence, but on a much grander scale—some reports place the death toll in the Rwandan genocide at more than 800,000 people. Not only did these atrocities occur under the not-so-watchful eye of UN peacekeepers, but the UN officials responsible for making the decisions not to intervene sooner (or to not respond more robustly) to protect innocent civilians cannot even be prosecuted for these disasters in which they played a

¹⁹⁰ Tim Papenfuss, “Interview with John Hirsch, Former U.S. Ambassador to Sierra Leone, on Charles Taylor,” *Global Observatory* 30 April 2012. “IPI” is the International Peace Institute.

¹⁹¹ Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 19-20, 28-32.

crucial role.¹⁹² UN officials and military members on mission (UNMEM) are immune from local accountability and prosecution, so failures to take action may have deadly consequences for local populations, but little effect on the UN official making the decision or recommendation.

The above examples of UN peacekeeping failures all have one thing in common: slow response and disengagement by the international community. Recognition of crises and early intervention, especially when protection of civilians is at stake, is literally the difference between life and death. Most analysts writing on peacekeeping acknowledge that recognition and response is critical, but seem to define peacekeeping failure as essentially the opposite of the definitions of success, that is, conflict continues while peacekeepers are present or conflict restarts once peace implementers are gone.¹⁹³ Howard agrees that failure results most often when there is no consent of the parties, but adds that Security Council consensus/intensity of interest and first-level organizational learning in the UN Secretariat are three conditions that, unless met, any one is sufficient to cause failure.¹⁹⁴ Fortna argues that peacekeeping fails when belligerents are not committed to peace or ceasefire agreements.¹⁹⁵ But it is more than either of these definitions. In nutshell, peacekeeping fails when civilians are not protected from violence, when there is no peace to keep, and when there is no one to stop the violence.¹⁹⁶ In the case of observer missions, they are certainly not successful if violence

¹⁹² Manfred Gerstenfeld, "Op-ed: What About UN Crimes? IDF Actions Pale in Comparison to Crimes Committed by UN Peacekeeping Forces," Israel News: Ynetnews, <http://www.ynetnews.com/articles/0,7340,L-4223342,00.html>.

¹⁹³ Stedman, Rothchild, and Cousens, *Ending Civil Wars : The Implementation Of Peace Agreements*: 50–51.

¹⁹⁴ Howard, *UN Peacekeeping In Civil Wars*: 7–20.

¹⁹⁵ Commitment of belligerents to ceasefires or peace agreements is a fundamental argument in Fortna's book. Fortna, *Does Peacekeeping Work?*

¹⁹⁶ These three elements are a paraphrase of the UN's fundamental elements of successful peacekeeping. The three watershed events which precipitated the UN to acknowledge R2P and that rapid response and effective engagement in the protection of civilians (POC) was critical were the failures in Sierra Leone, Rwanda, and Bosnia.

continues, increases, or is merely “observed.” Finding the right mechanisms and means to accomplish this protection of civilians must be at the core of UN engagement.¹⁹⁷

3. Conclusion

This portion of the literature review has attempted to summarize an area of peacekeeping that remains in debate: what are the conditions necessary for successful peacekeeping? There are certainly factors which weigh into the equation, and as has been shown, there is contention over which of those factors (or groups of factors) is most important. In the end, continuous review and analysis of cases, application of lessons learned, and practical engagement by the international community with the primary goal of peace and human security tends toward achieving success by most definitions.

Another point of view on the success of peacekeeping which is not often discussed is that of the “peacekept.” Recently, there was a forum held at the Monterey Institute of International Studies (MIIS) on building peace amidst the crisis in Sri Lanka and there happened to be a number of Sri Lankans in the audience.¹⁹⁸ The forum focused on the tactics of the government and the methods used by soldiers to quell the Tamil Tigers. The speakers were claiming that there still was no peace in Sri Lanka and that there was a long way to go. Disagreeing, one gentleman in the audience who claimed to have lived his entire life in Sri Lanka stood up and announced confrontationally to the speakers that their definition of peace was all wrong. His contention was that there are always underlying issues that need to be resolved—peace is “not having bombs dropped randomly or fearing that at any moment you could be shot...peace is not fearing for your life every day...peace is the absence of war.”¹⁹⁹ Anecdotally I found this to be a compelling argument from the perspective of the “peacekept.” It also reinforces the point made by Barbara Walter who wrote that resolving underlying issues is not enough to

¹⁹⁷ Necessary if for no other reason than it is a fundamental purpose of the UN to protect people from harm.

¹⁹⁸ Shalini Nataraj and Krishanti Dharmaraj, “Building Peace in Sri Lanka’s Killing Fields,” in *Forum sponsored by the Center for Conflict Studies and Conflict Resolution Association* (Monterey Institute of International Studies 8 March 2012).

¹⁹⁹ Ibid.

convince parties in conflict to agree to a peace settlement and actually follow through and implement it.²⁰⁰ Actually stopping the violence at the level of combatants may be the first step to any implementation of peace, but creating the conditions for collaborative adoption of policies that will ensure peace in the long run creates the “absence of war.” These policies may be agreeable to all parties, but they may not actually solve the underlying issues. Accepting that underlying issues may not be resolved can be good enough as long as agreed-upon measures prevent war from resuming. Political leaders negotiating peace apart from those who are intimately affected by the violence of war are negotiating in a vacuum unless they can ensure that people will have personal protection and security first. After security at the individual and community level, and after demobilization and most of the guns have been turned in as part of a systematic DDR program, institutional design and stability can be addressed. Military or “robust” peacekeeping enforcement may be necessary at the early stages to stop the fighting, but in the end, it is a short-term measure, albeit necessary, to get to coordinated and collaborative restructuring of institutions, or what Walter calls “creative institutional design,” by those who live there and not outsiders, to create the possibility of long-term peace and stability.²⁰¹

In some regards, protection from violence, i.e., human security, can be enough as long as there is a reasonable belief that the violence will not continue—sustainable protection of civilians. This view is certainly echoed by the UN as is evidenced by the UN Secretary-Generals’ comments on the protection of civilians in armed conflict: 1) “The protection of civilians...is fundamental to the central mandate of the organization. The responsibility for the protection of civilians cannot be transferred to others”;²⁰² 2) there is a “need to address the causes of armed conflict in a comprehensive manner in

²⁰⁰ Walter, “Designing Transitions from Civil War,” 129. Walter asserts that offensive military operations may be necessary initially but compromise does not mean that underlying issues are resolved, only that the benefits of peace are preferred over conflict, and that, over time, through building infrastructure and institutions, peace will become a more sustainable norm.

²⁰¹ Ibid., 154–55.

²⁰² United Nations Secretary-General, “Report by the UN Secretary-General on the Protection of Civilians (POC) in Armed Conflict,” ed. Kofi Annan (New York: United Nations, 1999).

order to enhance the protection of civilians on a long-term basis, including by promoting economic growth, poverty eradication, sustainable development, national reconciliation, good governance, democracy, the rule of law and respect for and protection of human rights.”²⁰³ Human security in general and protection of civilians in particular has become fundamental to the UN’s mission. Therefore, it is vital that protection of civilians, human security, and human rights be part of the equation when seeking the right tools to bring about peacekeeping’s aims.

²⁰³ United Nations Secretary-General, “Resolution 1265,” ed. Kofi Annan (New York: United Nations, 17 Sept 1999).

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III. LITERATURE REVIEW: ELEMENTS OF THE DEBATE

The Panel concurs that consent of the local parties, impartiality and the use of force only in self-defence should remain the bedrock principles of peacekeeping.

Report of the Panel on United Nations Peace Operations²⁰⁴

When we had need of skilled soldiers to separate fighters from refugees in the Rwandan refugee camps in Goma, I even considered the possibility of engaging a private firm. But the world may not be ready to privatize peace.

Kofi Annan, Secretary-General, United Nations²⁰⁵

The pros and cons of PSCs engaged in peacekeeping has been debated at many levels and in many forums. This chapter reviews some of the most common reasons for and against their use, citing arguments from both sides. What this review finds is that no one argument stands out as consistently superior either in support of or against PSCs in peacekeeping. What it does find is that whatever force effectively and sustainably protects people and communities from violence is the one (or mix of forces) that should be used.

A. PEACEKEEPING AND PSCS

There are fundamental requirements to conduct peacekeeping. If PSCs are to be considered for use in peacekeeping missions, critical elements to effective peacekeeping must be applied to traditional peacekeepers and PSCs alike. Elements of the debate include:

²⁰⁴ United Nations, “Report of the Panel on United Nations Peace Operations” (New York: United Nations, 2000), Executive Summary.

²⁰⁵ Annan, “Intervention.”

–Impartiality and neutrality

Required in most peacekeeping missions.

Not to be confused with neutrality or inaction, peacekeepers must “implement their mandate without favour or prejudice to any party.”²⁰⁶ An exception is peace enforcement missions; as a consequence, neutrality is primarily only a concern during Chapter VI peacekeeping missions; impartiality must be maintained always.

As Secretary-General Kofi Annan said in 1999, “Impartiality does not –and must not –mean neutrality in the face of evil; it means strict and unbiased adherence to the principles of the Charter – nothing more, and nothing less.”²⁰⁷

–Control, accountability, oversight, and transparency

These are all related in the debate over the use of PSCs because they are often viewed as mercenaries uncontrolled by state or international laws.

This debate has been made more contentious by highly publicized abuses committed by PSCs and the resultant lack of punishment meted out.

This debate is gaining added dimensions as the scope and depth of peacekeeper abuses, and especially sexual exploitation and abuse (SEA), are becoming increasingly uncovered and reported.

Accountability and transparency are obtained when codes of conduct, regulatory mechanisms, and contractual obligations are binding and enforced. Real enforcement only occurs when the costs to breaking the contract result in modified contractor behavior aligned with the principal’s aim. However, if breaking the contract through various types of abuse such as overcharging or

²⁰⁶ Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 33.

²⁰⁷ Annan, “Podium: Impartiality does not mean neutrality”—from a speech to the Council on Foreign Relations in New York.”

criminal behavior does not result in lost contracts or lost revenue, then enforcement is weak or ineffective. One mechanism used by the U.S. that has the capability to affect contractors' bottom lines, and therefore behavior, is suspension and debarment (S&D). However, contracting officer representatives (CORs) note that S&D is *not* meant to be punishment, but is part of administering standards; punishment remains the domain of the criminal justice system.²⁰⁸

Control of PSCs requires effective oversight, which is argued as a primary mechanism for contract adherence. When proper monitoring and evaluation of contractors is lacking, either because there are not enough personnel to monitor or those doing the monitoring are untrained, control over contractor actions is diminished. Along with other critical factors, PSCs maintain that recognizing failures of the past provides a baseline of lessons learned that only enhances their potential toward careful and effective adherence to codes of conduct, regulations, and contract requirements.

–Legitimacy

Legitimacy is derived from the international community by way of the UN and the Security Council. 193 Member States create legitimacy through agreement to act in accordance with the Charter and certain rules, treaties, or resolutions.

According to Major General Michael Smith, the former deputy force commander of the UNTAET peacekeeping force, “The most important condition for successful intervention is legitimacy, which influences the other factors and significantly affects the final success or failure of a mission.”²⁰⁹ Though PSCs may be viewed

²⁰⁸ Steven Shaw, “Don’t go overboard banning military contractors,” in *The Great Debate* (Washington, DC: Thomson Reuters, 8 August 2012). S&D has had a dramatic effect on the behavior of contractors in the U.S. Often the effect has been negative on transparency, since out of fear of S&D, contractors will refuse to work with government agencies in identifying problems, rather than “putting themselves on report” and working together to resolve the problem(s). S&D can destroy a company, especially if it has only one client, e.g., the U.S. government—in order to make S&D an effective administrative tool, CORs should provide incentives along with clear guidelines on proper behavior and consequences for failing to comply with the rules in place.

²⁰⁹ Dee, *Peacekeeping in East Timor: The Path to Independence*: 98.

as mercenary organizations by some, acting under contract by the UN or international organization may provide the controls required, with legitimacy to follow as the reputation of PSCs improve. On the other hand, the use of PSCs may act to delegitimize the UN and all peacekeeping efforts in a time when UN operations are under the watchful eyes of ex-combatants and vulnerable populations.

In an international environment there are often few mechanisms to monitor, inspect, and ensure transparency of PSCs. According to Smith, legitimacy must be fulfilled through legality and morality, and when these coincide, there is “considerable international political support for intervention...improving the prospects for success.”²¹⁰

Gaining legitimacy has been one of the most difficult areas for proponents of PSCs to demonstrate advantage, since PSCs are often viewed as mercenaries or as unaccountable agents out only for profit. However, effectiveness plays a role in determinations of legitimacy.²¹¹ If PSCs can be effective in supporting peacekeeping aims their use might be considered. Legitimacy will weigh heavily in analysis of advantages and disadvantages of PSCs in peacekeeping since, as Smith notes, so many other factors are dependent upon it.²¹²

–Cost and efficiency

Both are common arguments for and against the use of PSCs in general. David Isenberg notes that “[I]t is often said that such firms are more cost-effective and efficient than the public sector, but the simple truth is that nobody knows for sure.”²¹³ Jessica Vogel, Director of Programs and Operations of the International Stability

²¹⁰ Ibid.

²¹¹ James Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?* (Oxford ; New York: Oxford University Press, 2010), 30–35.

²¹² Dee, *Peacekeeping in East Timor: The Path to Independence*, Chapter 3.

²¹³ Isenberg, *Shadow force : private security contractors in Iraq*: 161; Fredland, “Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies,” 209–16. Fredland states that three factors play a role in determination of cost analysis that complicate comparison: uncertainty; asset specificity; and probity.

Operations Association (ISOA), notes that although PSCs claim to be more cost efficient and effective, “there has never been comprehensive and accurate data published on this topic...”²¹⁴

Cost and efficiency have been subjectively studied by a number of agencies, such as the Commission on Wartime Contracting, Special Inspectors General for Iraq and Afghanistan Reconstruction (SIGIR and SIGAR), Project On Government Oversight (POGO), Center for Strategic and International Studies (CSIS), and others. Their conclusions are often in direct contradiction, depending upon who sourced the study.

Due to lack of available accurate information from governments, international organizations, and private companies, and because much of the information that could be used in cost-comparison and efficiency studies is confidential or proprietary, comprehensive and objective review has never been published.²¹⁵

Some argue PSCs are better suited to peace enforcement missions where flexibility, efficiency, and speed play a critical role in protecting people from violence (the “narrow view” of human security). PSCs will have certain comparative advantages over

²¹⁴ Jessica Vogel, 30 May 2012.

²¹⁵ Jessica Vogel, email, 30 May 2012. *See also* Bruneau, who writes that, “Reliable information is hard to come by, for several reasons, mostly having to do with the fact that private security firms are, well, private.” He also writes that “private security contractors tend to be highly secretive, for a number of reasons.” These reasons included: operational security, competition, culture of secrecy shared by former police & military employed by PSCs, and finally, that PSCs discourage employees from discussing with outsiders (“researchers or anyone else”). Bruneau, *Patriots For Profit : Contractors And The Military In U.S. National Security*: 108, 12.

traditional peacekeepers, such as the ability to deploy quickly with higher levels of innovation and efficiency.²¹⁶

–Human security

Under the narrow definition of human security, violence or threat of violence must be mitigated or removed in order for there to be any security. PoC, R2P, and human security have all become central to the UN's focus.

Peacekeepers have an obligation to effectively protect populations in accordance with the mandate as described by the Security Council.

Arguments in favor of PSCs claim that they offer a flexible, innovative, efficient, and cost-effective force that can supplement troops during times when traditional peacekeeping troops are in short supply, either because of how rapidly they must deploy or because contributing nations are not willing to provide troops for certain missions. PSCs hold that their security personnel are better trained than many of their traditional state-supplied peacekeeping counterparts and that their ability to respond quickly could have made the difference and stopped genocides such as occurred in Rwanda or the violence which is continuing today in Democratic Republic of Congo (DRC).

²¹⁶ See, for example the following number of books and articles that support the idea that PSCs may be “cheaper, better, faster,” (at least in some ways): Dunigan, *Victory for hire : private security companies' impact on military effectiveness*: 90. See also proponents' arguments for the use of PSCs which always include efficiency, innovation, and flexibility as advantages to using PSCs over state or international organization (regional or UN) personnel, e.g., see Doug Brooks, “The Business of World Peace: Military Service Providers (MSPs) Revolutionize International Peace Operations,” *Canopy Magazine* 2003; Don Mayer, “Peaceful Warriors: Private Military Security Companies and the Quest for Stable Societies,” *Journal of Business Ethics* 89(2010); TX Hammes, “Private Contractors in Conflict Zones: The Good, The Bad, and the Strategic Impact,” *Joint Forces Quarterly* 1st Quarter, no. 60 (2011). Hammes concludes that “[c]ontractors provide a number of advantages over military personnel or civil servants—speed of deployment, continuity, reduction of troop requirements, reduction of military casualties, economic inputs to local economies, and, in some cases, executing tasks the military and civilian workforce simply cannot.”

Arguments to the contrary focus primarily on fears of profit-seeking behavior and principal-agent problems where ultimately, PSCs as agent create conditions where they reinforce their position through manipulating the system and the use of asymmetric information which advantages them over the principal (states or the UN). In turn, reliance on their use would increase (as a result of asset specificity),²¹⁷ or worse, could expand conflict (as many fear they will do if used by the UN for peacekeeping). In this latter scenario, human security would be degraded by the use of PSCs in peacekeeping, not improved, as proponents of PSCs contend.

Conclusion

This portion of the literature review finds that peacekeeping missions require a “competent and professional force, long-term international commitment, and adequate resources”²¹⁸ in order to remove the threat of violence from individuals or communities. Human security, legitimacy, credibility, impartiality/neutrality, effectiveness, and accountability are all critical elements in peacekeeping. If the advantages to the use of PSCs are found to outweigh the disadvantages, then these findings may be used in future policy decisions with regard to how, when, and if PSCs should be used as peacekeepers or in UN peacekeeping at all.

B. SUMMARY OF PROS AND CONS

In order to get to this point and fully understand the pros and cons, it has been necessary to cover the literature and definitions of UN peacekeeping, success and failure, PSCs, and responsibilities of states, ROs, IOs, and the UN with regard to all manners of peacekeeping. The primary arguments for and against the use of Private Security Companies in peacekeeping can be found in the following lists of advantages and disadvantages. PSCs claim to offer many advantages over traditional international military forces, such as RO and UN troops, in the conduct of peacekeeping. Proponents argue that advantages include:

²¹⁷ Asset specificity is a condition where PSCs might create self-sustaining reliance on their services to the exclusion of others. See Oliver E. Williamson, “Public and Private Bureaucracies: A Transaction Cost Economics Perspective,” *Journal of Law, Economics, and Organization* 15, no. 1 (1999).

²¹⁸ Brooks, “Ruthless Humanitarianism: why marginalizing private peacekeeping kills people,” 117.

1. PSCs (Advantages)

- able to create quick response teams and take the lion's share of the immediate security required in crisis situations before the UN can mobilize troops;
- more flexible;
- cost less;
- more efficient;
- not necessarily politically aligned with any one nation;
- quicker—can be on the ground before genocide or ethnic cleansing starts and be contracted to prevent it;
- able to protect NGOs/IOs/IGOs, humanitarian organizations, etc., from immediate threats allowing them to prepare for their operations;
- able to support security sector reform (SSR) in collapsed/post-conflict/rebuilding states—especially until the UN gets there;
- able to conduct initial peacekeeping/enforcement;
- not geopolitically motivated, they are under contract—contract dictates the terms, not geopolitical desires;
- no real connection to the conflict/disaster other than to fulfill contract;²¹⁹
- more likely to produce success since they do not get paid/do not get subsequent contracts from the UN or host governments if they fail—there is always someone else to get the next contract/do the job;
- greater technological capability and level of innovation than most militaries can provide;
- better trained—system of voluntary troop contributions forces the UN to take what it can get, and too often what it gets are ill-trained and poorly equipped troops incapable of stopping violence.²²⁰

Opponents to the use of PSCs in peacekeeping argue the following disadvantages:

²¹⁹ Lack of connection with cause/conflict could be viewed as positive or negative for neutrality/impartiality.

²²⁰ Peter Gantz, "The Private Sector's Role in Peacekeeping and Peace Enforcement," in *Global Policy*, GlobalPolicy.org (Washington, DC: Refugees International, 18 November 2003).

2. PSCs (Disadvantages)

- only there for the money, they have no real interest in the cause;²²¹
- could be corrupt and paid by the other side in conflict/post-conflict (C/PC) situations (many refer to them as “mercenaries”);²²²
- might ONLY fulfill contract and nothing more, e.g., if stopping genocide is not in the contract, they may stand back and watch;²²³
- “merchants of death”—they want to extend conflict or disaster indefinitely so that they can continue to get paid;
- could reduce numbers of personnel or use less-trained personnel in order to cut costs;²²⁴
- are not politically/morally invested —no real loss other than money if they fail;
- can quit—a soldier cannot “quit”;
- reduced accountability/lack of regulation;
- committed serious human rights and criminal abuses for which there has been no accountability;
- challenge the Weberian argument that the State enjoys a monopoly on the legitimate use of coercive force;²²⁵

²²¹ Ibid. What prevents a PSC from pulling out of an operation if it gets to be too difficult or dangerous? PSCs could also decide to strike if conditions are not to their liking or if conditions change, *see* examples of the 2006 South African Transport and Allied Workers Union (SATAWU) strike where private security personnel across the country not only did not provide security, they looted, damaged property, and committed violent crimes. *See, for example*, Fatima Schroeder, “Shops Looted as Security Strike Continues,” *IOL South Africa News* 18 April 2006. <http://www.iol.co.za/news/south-africa/shops-looted-as-security-strike-continues-1.274432#.UC6rUxqXfTp>, accessed 17 August 2012.

²²² Since their motivation is money, perception is that PSCs will choose to offer their services to the highest bidder, not necessarily the one endorsed by states, regional organizations, or the United Nations.

²²³ As UN peacekeepers have done when mandate was not clear, e.g., Srebrenica, Bosnia.

²²⁴ Recent examples of PSCs unable to provide proper number of trained security include G4S’s debacle with the 2012 Olympics in London. G4S was only able to provide as many as 7,000 of the contracted 10,400 PSC personnel when time came for them to be used. As a result, the UK MoD drafted 18,500 soldiers for the job. London’s defense secretary, Philip Hammond, admitted that “The failure of G4S to provide adequate staffing levels for the Olympics showed the limitations of private companies taking on public sector contracts.” “G4S fiasco revealed limitations of private sector, admits Defence Secretary Philip Hammond,” *The Telegraph* 14 August 2012. <http://www.telegraph.co.uk/news/uknews/defence/9473888/G4S-fiasco-revealed-limitations-of-private-sector-admits-Defence-Secretary-Philip-Hammond.html>, accessed 17 August 2012.

²²⁵ Max Weber, *Politics as a vocation*, Facet books Social ethics series, (Fortress Press, 1965); James Cockayne, “The Global Reorganization of Legitimate Violence: Military Entrepreneurs and the Private Face of International Humanitarian Law,” *International Review of the Red Cross* 88, no. 863 (2006).

- could be used against weaker governments;
- support the wealthy and those in power;
- take much needed money from traditional suppliers of peacekeepers (TCCs) who rely on UN funding—PSC peacekeepers are competition.²²⁶

Kevin A. O'Brien notes in his article, *PMCs, Myths and Mercenaries: The Debate on Private Military Companies*, that "[t]he most sensationalist and contentious issue surrounding the question of PMCs is the accusation that they are mercenaries and that these actions exist in a vacuum; neither of these contentions are valid."²²⁷ His main point is that "privatised policing is seen in most Western societies as an acceptable capability for a state to have...Private military operations should not be seen as being different..."²²⁸ "The way forward is clear: effective regulation, at both national and international levels, and not prohibition is the key."²²⁹

First, in attempting to validate their own legitimacy, PSCs tout strict codes of conduct and standards for behavior. On the other side, opponents to their use claim that they are irresponsible actors who follow the rules that suit them, and that, the rules that exist have no real legal "teeth." Second, aside from arguments that the UN has no real legal control over the peacekeepers it does use, the international environment offers few mechanisms to monitor, inspect, and ensure transparency of PSCs and their employees either. Third, determinations of impartiality and neutrality apply differently to Chapter VI and Chapter VII missions. Taking into account that the majority of PSCs are headquartered in or operate out of OECD countries, impartiality and neutrality can be argued as factors in question. That is, Western states may be seen as biased toward predominantly Western values or toward Western solutions to non-Western problems. Additionally, there are discussions on both sides of the debate over neutrality and

²²⁶ Deborah D. Avant, "Mercenaries," *Foreign Policy* 143, no. Jul.-Aug., (2004): 27–28; James Cockayne, "Interview with James Cockayne, Co-Director, Center on Global Counter-Terrorism Cooperation" (New York, 17 June 2012).

²²⁷ Kevin A. O'Brien, "PMCs, Myths and Mercenaries: The Debate on Private Military Companies," *The RUSI Journal* 145, no. 1 (2000): 59–64.

²²⁸ Ibid.

²²⁹ Ibid., 64.

impartiality which require further evaluation since one side holds that because PSCs are profit-driven, they are motivated primarily by money and not nationalistic or idealistic values, and therefore, not biased for or against either party to the conflict. On the other side, an argument can be made that because PSCs are viewed as loyal to the highest bidder, their impartiality or neutrality is always in question or biased only toward a profit motive.

Proponents of PSCs claim that they have advantages that can be capitalized upon for peacekeeping: they can be used as “convenient force multipliers”²³⁰ which can enhance capabilities of UN—or region-sponsored peacekeepers where personnel or equipment support is lacking. Additionally, PSCs have a great deal of experience in “training, intelligence, surveillance, demining and logistics.”²³¹ Although there is a considerable amount of negative attention given to PSCs primarily from their poor behavior and illegal actions in conflicts from Iraq and Afghanistan to the Balkans and Africa, there are many cases of them being used extensively (and successfully) in the very same places toward promoting the fundamentals of human security, especially in the reduction of violence.²³² Other advantages touted by PSCs are the cost savings that can

²³⁰ Bures, “Private Military Companies: A Second Best Peacekeeping Option?,” 543; Moshe Schwartz, “The Department of Defense’s Use of Private Security Contractors in Afghanistan and Iraq: Background, Analysis, and Options for Congress,” in *CRS Report for Congress: Prepared for Members and Committees of Congress* (Washington, DC: Congressional Research Service, 2011), 5. Schwartz writes, “Security contractors also serve as a force multiplier for the military, freeing up uniformed personnel to perform combat missions or providing the State Department with the necessary security capabilities when State’s civilian security force is stretched thin.” In this regard, UN peacekeeping could use a “force multiplier”; however, PSCs also come with “force complications” which may not be a good fit for UN peacekeeping.

²³¹ For example, private companies perform a good deal of demining for the UN, *see, for example*, the UN-sponsored Electronic Mine Information Network (E-MINE), http://www.mineaction.org/orgs.asp?org_type=7, *see also*, Brooks, “Messiahs or Mercenaries? The Future of International Private Military Services,” 140.

²³² Bures, “Private Military Companies: A Second Best Peacekeeping Option?,” 538–39. MPRI, Sandline, Executive Outcomes, and DynCorp all claim peacekeeping experience and capacity.

be found in hiring their services over using armed forces or the UN for security.²³³ Doug Brooks, the president of the International Stability Operations Association, an agency that represents more than sixty PSCs, argues that “What makes PSCs viable is their ability to offer military services more efficiently, more rapidly, and much more cheaply than state militaries or non-military companies could do themselves...PSCs can do military tasks for a fraction of the costs of typical UN operations.”²³⁴ Moshe Schwartz, a specialist in defense acquisition for the Congressional Research Service, writes:

*Contractors can often be hired and deployed faster than a similarly skilled and sized military force. Because security contractors can be hired and fired quickly as needed, using contractors can allow federal agencies to adapt more easily to changing environments around the world. In contrast, adapting the military force structure or training significant numbers of Department of State civilian personnel can take months or years. Security contractors also serve as a force multiplier for the military, freeing up uniformed personnel to perform combat missions or providing the State Department with the necessary security capabilities when State’s civilian security force is stretched thin.*²³⁵

Although Allison Stanger agrees that there are benefits to privatization of certain services for many of the reasons noted above, she argues that benefits are primarily in the short run and that Congressional Budget Office evidence suggests that outsourcing security costs more than relying on U.S. Army units.²³⁶

The primary criticisms that PSCs face are those of accountability, regulation, and monitoring. Other aspects which are fundamental to their ability to conduct peacekeeping

²³³ Executive Outcomes’ (EO) total cost for 21 months service to the government of Sierra Leone was \$35M (\$1.5M monthly); UN cost was estimated at \$47M per month once peacekeepers arrived in support of the UN Observer Mission in Sierra Leone (UNOMSIL). EO’s cost, considering the quickness and efficiency with which they executed their mission seems a bargain by comparison. Toffler, *War and anti-war : survival at the dawn of the 21st century*: 151–52; Singer, *Corporate Warriors*: 112–14; Mandel, *Armies without states : the privatization of security*: 18.

²³⁴ Brooks, “Messiahs or Mercenaries? The Future of International Private Military Services,” 131.

²³⁵ Schwartz, “DoD’s Use of PSCs,” 7.

²³⁶ Stanger, *One nation under contract : the outsourcing of American power and the future of foreign policy*: 90–98. Stanger cites “Contractors’ Support of U.S. Operations in Iraq,” Congressional Budget Office, Washington, DC., 2008, 16–17. Figures used are subject to interpolation, and in many cases, different interpretations lead to different conclusions. CBO conclusion is: “analysis indicates that the costs of the private contractor did not differ greatly from the costs of having a comparable military unit performing similar functions.” (14)

are legitimacy and whether they improve or degrade human security; however, these two aspects are likely to be found directly consequential to accountability. That is, if PSCs can be effectively monitored and regulated, legitimacy (and the perception of legitimacy) and their ability to improve human security is more likely.

There are different ways that PSCs can be held accountable, but this accountability generally falls in one of two categories. On one side, PSCs claim to be able to self-regulate through reputation and the process of competition in the free market (Adam Smith's "invisible hand" ²³⁷). On the other side, when things go wrong, and PSCs should be facing criminal charges, "self-regulation" does not include investigations or criminal prosecution.²³⁸ There are myriad accusations and international condemnation of human rights violations and atrocities committed by PSC personnel for which there has yet to be criminal accountability.²³⁹ Steven Brayton also notes that it is not only the human rights violations which are problematic, but also the PSCs' motives.²⁴⁰ Specifically, Brayton found that many of the PSCs operating in low-intensity conflicts were doing so selectively and solely for economic gain where minerals were involved,

²³⁷ Mortimer Jerome Adler et al., *Adam Smith: An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. Mortimer J. Adler, [2nd ed., 61 vols., vol. 36, Great Books of the Western World (Chicago: Encyclopaedia Britannica, 1990), 217.

²³⁸ An excellent example of how self-regulation seems to (not) work when things go wrong can be seen through David Isenberg's Kafkaesque journey through the ISOA ICoC complaint process and reporting on noncompliant private contractors—in this case, the contractor concerned was a company called Mission Essential Personnel (MEP) and the accusation was that MEP was hiring unqualified translators, endangering the safety of American troops—see https://docs.google.com/file/d/0B-_j0E2U1KtEQkVRLVZ1bFdkZTA/edit, accessed 17 August 2012.

²³⁹ Examples include: 2007 killing of seventeen civilians in Nisoor Square, Iraq by Blackwater employees; Abu Ghraib human rights abuses and torture by CACI and Titan employees; and a child pornography ring by DynCorp personnel in the Balkans, *found in*: Benedict Sheehy, Jackson Maogoto, and Virginia Newell, *Legal Control of the Private Military Corporation* (New York, NY: Palgrave Macmillan, 2009), also in Stanger, *One nation under contract : the outsourcing of American power and the future of foreign policy*: 92..

²⁴⁰ Steven Brayton, "Outsourcing War: Mercenaries and the Privatization of Peacekeeping," *Journal of International Affairs*, 55, 2 (Spring 2002), 303–329, 305.

leading to serious questions concerning ulterior motivation.²⁴¹ In these cases, where intrastate conflicts had strategic impacts, threatening international stability, PSCs were not seeking resolution, but focusing on profit.²⁴² While the UN has adopted a new strategy aimed at “how to stay,” rather than “when to leave,” the UN’s goal is not to secure more contracts or make a profit, the UN’s goal is to create peace. The only way that peace will become the goal of PSCs is if it is in their contract and they get paid for it. Whether or not peace for profit is morally or ethically a problem is outside the bounds of this paper, but profit and cost do weigh in to determinations of PSC use.

While the focus by PSCs may be profit, states, the UN, or other organizations that hire PSCs have an obligation to exercise careful management and monitor contracts to ensure that abuses are not occurring.²⁴³ Until PSCs can show that they not only hold themselves accountable, but are held accountable “under the jurisdiction of international tribunals for any violations of the laws of war,”²⁴⁴ it seems prudent and necessary that they remain under scrutiny and international suspicion for their operations; and as Oldrich Bures notes, should “only be used with extreme caution.”²⁴⁵ For many, one question remains: “Are private military companies capable of taking on some of the proliferating international peacekeeping functions”²⁴⁶ consistent with UN policy and

²⁴¹ Ibid. This claim is disputed by both former heads of the organizations (Tim Spicer of Sandline International and Eeben Barlow of Executive Outcomes) accused of operating for diamond or mineral concessions. Neither company has ever admitted that they have accepted mineral concessions and neither has ever been prosecuted for or convicted of illicit contracts. However, Spicer did mention in his book that he sees no problem with accepting mineral concessions or payments in minerals if it is the means by which a country can pay since “[h]ard currency is difficult to come by in many third world countries.” He denies, however, ever accepting concessions, futures, or diamonds, for example, as payment because, as he writes, he simply does not “have the expertise to get involved in these transactions. A mineral concession to me is worth nothing; it is a liability, likely to soak up millions before any return is seen, if one ever is.” Spicer, *An Unorthodox Soldier*: 24–25.

²⁴² Ibid.

²⁴³ It has been contract law where accountability of PSCs has seemed to find the most ground. Sheehy, Maogoto, and Newell, *Legal control of the private military corporation*; Dickinson, *Outsourcing war and peace : preserving public values in a world of privatized foreign affairs*.

²⁴⁴ Bures, “Private Military Companies,” 544.

²⁴⁵ Ibid.

²⁴⁶ Bures, “Private Military Companies: A Second Best Peacekeeping Option?,” 533.

guidance? But this question can only be answered through actually using them in peacekeeping capacities—and before PSCs are used in peacekeeping, the pros and cons to their use must be addressed.

One anticipated problem with measuring claims by PSCs that they are “quicker, faster, and much cheaper”²⁴⁷ than UN, regional, or state forces is whether or not they will be able to translate this claimed efficiency to peacekeeping operations. PSCs have performed a vast array of security tasks in the past, to include humanitarian assistance / disaster relief (HA/DR), security sector reform (SSR), demobilization, disarmament, reintegration, and reconstruction (DDRR), training of militaries and police forces, as well as protection of persons from violence (including UN personnel).²⁴⁸ PSC lobbyists argue that these activities demonstrate their qualifications to conduct all aspects of actual peacekeeping in support of the UN. With an annual budget of almost \$8 billion, the peacekeeping “industry” is certainly one in which PSCs would like to get involved more directly.²⁴⁹ Proponents of their use for peacekeeping argue that the flexibility and speed of deployment that PSCs offer could oftentimes quell violence before it achieved levels requiring UN peacekeepers.²⁵⁰ Additionally, the use of PSCs to stabilize a situation could help to lay the initial groundwork for UN peacekeepers to better accomplish the mandate.²⁵¹ Working with international and local authorities, those in favor of PSCs

²⁴⁷ Singer, *Corporate Warriors*: 183. This is also a commonly expressed claim of Doug Brooks, the president of the International Stability Operations Association, a “trade association” for private contractors, also called a lobbying group by many.

²⁴⁸ PSCs have conducted various missions around the globe, from participation in combat in Iraq and Afghanistan to protection of NGO personnel in Banda Aceh, Indonesia. The only humanitarian mission they have not officially conducted is peacekeeping under UN sanction. Mandel, *Armies without states : the privatization of security*: 9–20. See also, Jan Grofe, “Human Rights and Private Military Companies: A Double-Edged Sword too Dangerous to Use?,” in *Private Military and Security Companies: Chances, Problems, Pitfalls, and Prospects*, ed. Gerhard Kummel Thomas Jäger (Wiesbaden: VS Verlag für Sozialwissenschaften, 2007), 241–58.

²⁴⁹ Brooks and Renou, *Peacekeeping or pillage? : private military companies in Africa*; Brooks, “Ruthless Humanitarianism: why marginalizing private peacekeeping kills people.”; United Nations General Assembly, “Financing Peacekeeping,” United Nations, <http://www.un.org/en/peacekeeping/operations/financing.shtml>. website, accessed 12 July 2012.

²⁵⁰ Brooks, “Ruthless Humanitarianism: why marginalizing private peacekeeping kills people.”

²⁵¹ However, as will be shown in a predominance of case studies is that when PSCs did “lay the groundwork,” for reasons which will be explored, the UN did not build upon gains made by PSCs.

argue that “a well-regulated private security sector can in cooperation with the police act as a ‘force multiplier,’ increasing the overall sense of security.”²⁵²

3. PSCs as an Existing Market

Because of the complexity and scope of these new and diverse missions in riskier environments, the UN has substantially increased its use of PSCs to protect its own personnel, offices, or equipment.²⁵³ This use of PSCs equates in many ways to the “market” for peacekeepers. This market for peacekeepers pays nations for sending troops to conduct missions under UN sanctions or mandate. Peacekeepers themselves are paid by their host nations—sometimes more, more often less, than the UN authorized amount for each soldiers’ service.²⁵⁴ In many cases, peacekeeping is primarily a money-making opportunity for poor states to bolster their GDP. Adam Smith of the International Peace Institute also argues that it is not just money, but prestige that encourages some countries to contribute more soldiers than others: “The prestige factor is more about being *known* as one of the top 10 TCCs to UN peacekeeping—kind of a mark of pride. A country like Indonesia now has a goal of becoming one of the top 15 TCCs, which is about prestige—being seen as an international peacemaker.”²⁵⁵ There is also a factor of influence for TCCs. “Increased posts at UNHQ (and also importantly, in the field, say as force commander, etc.) is where the influence comes in...having large numbers of troops in a mission also gets a TCC a voice in the UNSC decision-making regarding revisions to that mission’s mandate.”²⁵⁶ For example, Bangladesh, India, and Pakistan hold the top spots

²⁵² Rita Abrahamsen and Michael C. Williams, “Security Sector Reform: Bringing the Private In,” *Conflict, Security & Development* 6, no. 1 (2006). Cited in Geoff Burt, “From Private Security to Public Good: Regulating the Private Security Industry in Haiti,” *The Centre for International Governance Innovation (CIGI) Security Sector Reform (SSR) Issue Papers* No. 9, no. June 2012: 5; Pingeot, “Dangerous Partnership.” Pingeot argues that a well-regulated private security sector is key to preventing abuses.

²⁵³ Østensen, “UN Use of Private Military and Security Companies: Practices and Policies.”

²⁵⁴ Moskos, *Peace soldiers : the sociology of a United Nations military force*: 72. This also relates to one of the oft-referred to claims that PSC personnel earning more than state-sponsored peacekeepers would affect morale and ultimately the mission; it may or it may not, but there are already disparities in the pay of peacekeepers of different nations.

²⁵⁵ Smith, “Interview with Adam Smith, Researcher, International Peace Institute,” 1.

²⁵⁶ Ibid.

for troop contributions in the world, and as a result, the three countries hold a very high number of posts at UNHQ.²⁵⁷ Soldiers' specific training is not necessarily taken into account, nor is their method of recruitment, or their specific abilities to conduct peacekeeping operations; moreover, there is no consideration of any biases they may have toward the conflict in which they will be placed.²⁵⁸

Another factor to consider is the quality of the peacekeeping troops being supplied. In a paper by Tanya Cook, she writes that "Western states, in particular, are unwilling to become peacekeepers in civil wars, leading to an emerging picture of third world peacekeepers...This has impacted on quality, with badly trained and poorly equipped soldiers provided."²⁵⁹ In contrast, those who favor PSCs for these missions claim that their employee rosters are made up of predominantly well-trained former military and police. What is more, because their primary motivation is money, they may actually be less likely to mistreat the "peacekept" than those with ideological, national, or ethnic loyalties to some group or regime.²⁶⁰

If peacekeeping generates revenue for nations, and peacekeepers are already being paid to perform their duties, why then are PSCs not used to perform these missions? As an example, one report states that 7% of Fiji's GNP comes from the UN for their supply of peacekeeping troops; another notes that "countries like Bangladesh and Fiji make no secret that they profit from peacekeeping."²⁶¹ If the UN and peacekeepers are already engaged in what are essentially market-oriented relations and economic transactions, then why are PSCs excluded from these economic transactions?

²⁵⁷ Christopher Rhoads, "Peacekeepers at War," *Wall Street Journal*, 23 June 2012.

²⁵⁸ Peacekeeping training is primarily the responsibility of the TCC; however, recent disparities in training levels and SEA committed by peacekeepers has led to the UN adopting indoctrination training often performed by contractors employed by GPOI or ACOTA (previously known as ACRI).

²⁵⁹ Cook, "Dogs of War or Tomorrow's Peacekeepers?: The Role of Mercenaries in the Future Management of Conflict."

²⁶⁰ Tony Lynch and A. J. Walsh, "The Good Mercenary," *Journal of Political Philosophy* 8(2000).

²⁶¹ Philippe Chapleau, "Le sous-prolétariat des SMP: la filière fidjienne," *Lignes de défense*(2011), <http://lignesdedefense.blogs.ouest-france.fr/archive/2011/12/10/soldats-a-louer-la-filiere-fidjienne.html>; Richard Gowan, "Will UN Peacekeeping Fall Victim to Budget Cuts?," *The Globalist*, <http://www.theglobalist.com/StoryId.aspx?StoryId=8708>.

Claims that PSCs can mobilize more quickly, are more capable, and are better trained than traditional state peacekeepers lead to the argument that the use of PSCs would ultimately result in saved lives through the prevention of conflict, human rights abuses, or even genocide. Two examples commonly cited by PSCs include: 1) the routing of the RUF in Sierra Leone by EO,²⁶² protecting thousands of villagers from machete-wielding rebels; and 2) Military Professional Resources Inc. (MPRI) in the Balkans who advised Croatians on military tactics and who were ultimately able to turn the tide on marauding Serbs bent on ethnic cleansing. PSCs also contend that, had they been given the opportunity, they could have prevented many of the atrocities in Rwanda and Congo.²⁶³ In addition to a careful review of the many purported advantages and disadvantages of PSCs' use as peacekeepers, claims of speed and efficiency are reviewed with an eye toward the utilitarian argument, that is, their use will save more lives than not using them; essentially, whether or not the ends justify the means when it comes to human security. If these arguments are valid, are they sufficient to override critics' concerns with other aspects of PSCs' performance or legitimacy?

4. Privatization versus Outsourcing

Privatization is not the same as outsourcing. Often used synonymously, these words mean two different things. Outsourcing is generally a short-term business relationship where responsibility for actions of the agent is borne by the principal—the principal has ownership for implementation of the contract.²⁶⁴ Privatization is generally a long-term business relationship where responsibility for actions of the agent falls on the

²⁶² Now defunct, Executive Outcomes went out of business on 31 December, 1998, primarily as a result of the newly established South African Regulation of Foreign Military Assistance Act.

²⁶³ Both Eeben Barlow's PMC, EO, and Doug Brooks of the ISOA (then IPOA) had prepared and presented detailed proposals for ending atrocities and genocide in Sudan and Congo respectively. It was Barlow's proposal to the UN that caused the now famous statement in 1998 by then Secretary-General Kofi Annan, who had "considered the possibility of engaging a private firm to separate fighters from refugees in the Rwandan refugee camps in Goma," but concluded that, "the world may not be ready to privatize peace." Faite, "Involvement of Private Contractors in Armed Conflict: Implications under International Humanitarian Law." See also Barlow, *Executive Outcomes: against all odds*: 439–42; Brooks, "Supporting the MONUC Mandate with Private Services in the Democratic Republic of Congo."

²⁶⁴ Stan Soloway and Alan Chvotkin, "Federal Contracting in Context: What Drives It, How to Improve It," in *Government By Contract: Outsourcing and American Democracy*, ed. Jody Freeman and Martha Minow (Cambridge: Harvard University Press, 2009), 194–96.

agent—the agent has ownership for implementation of the contract.²⁶⁵ These are key terms because accountability shifts depending upon the type of business relationship which defines ownership and responsibilities between principal and agent.

If made illegal or if too much scrutiny is placed on PSCs, they may turn to more covert business practices and actually become more dangerous and increasingly “mercenary-like.” This is similar to the argument that if abortion is made illegal in the U.S., and not openly regulated, many women will resort to illegal abortions, resulting in worse problems.²⁶⁶ O’Brien states that Executive Outcomes (EO) announced their termination of operations because they were “no longer able to operate in a climate conducive to doing business due to on-going negative publicity and national regulation in the form of the 1998 *Regulation of Foreign Military Assistance Act*,” which led to actors who worked for EO previously to operate without the same level of scrutiny.²⁶⁷ In the end, the larger companies, like EO, who had demonstrated degrees of self-regulation, accountability, and transparency, were now closing shop, giving way and opening the market to much shadier elements. O’Brien goes on to write that:

*[by] engaging in dialogue with these private military companies, the government could have successfully co-opted them into legitimate operations. Now, the closure of EO may well signal the end of this effective dialogue and the emergence of much more covert—and therefore much more potentially damaging—firms engaging in entirely unregulated activities outside of South Africa’s borders.*²⁶⁸

Excessive regulation can be seen as creating more actual mercenary activity, as the demand may remain, but the supply will not be legitimated by the legal or democratic character that previously allowed PSCs to operate competitively. That is, cheap and illegal contractors may flourish if the costs of doing business legally become too high.

²⁶⁵ Ibid.

²⁶⁶ Similarly, Herbert Howe comments that “[p]rohibition of “mercenaries” would be akin to outlawing alcohol or prostitution: a durable supply and demand for any product will mock such legislation.” Herbert M. Howe, *Ambiguous order: military forces in African states* (Boulder, Colo.: Lynne Rienner Publishers, 2001), 226.

²⁶⁷ O’Brien, “PMCs, Myths and Mercenaries,” 60.

²⁶⁸ Ibid.

Moreover, as Brooks of the ISOA, who represents more than 20 PSCs, noted, “If companies need additional licenses, permits, personnel vetting, they will be significantly slowed, and in the case of a Haiti earthquake or something requiring immediate response and services, such delays directly cost lives.”²⁶⁹ In cases where expediency is critical, wholesale privatization of an industry may lead to stovepipes of specialization, possibly leading to more capacity, but increases in cost (due to requirements of compliance with standardized regulations, SOPs, licenses, training, etc.) and reductions in the very efficiencies PSCs claim to offer. Outsourcing of peacekeeping or security services, as necessary, might provide the means for rapid deployment of security services while maintaining positive control through M&E (principal maintains responsibility over agent), but at the cost of capacity and at the risk of operating in an environment without standard operating procedures or regulation. A common perception of a mercenary is one of a soldier hired on a temporary basis, responsible only to the person or agency paying his salary—mercenaries are outsourced, not privatized.

5. Mercenaries

*Morally, there can be no doubt about the repugnance of mercenary activity (which is ineffectually proscribed under international law), or any other form of private activity which makes a direct contribution to ignite or prolong violent armed conflict.*²⁷⁰

Many of the arguments against PSCs in peacekeeping use the term “mercenary” when referring to the employees of PSCs working overseas. This has had a damaging effect on the legitimacy of all contractors working overseas and not just those working for security firms. There are a multitude of definitions of what mercenaries are—almost as many as there are stories of mercenaries operating in Africa and attempting *coups*

²⁶⁹ Bill Varner, “U.S., U.K., Security Group Question UN Regulations,” *Bloomberg News* 17 June 2010.

²⁷⁰ Mark Malan, “The Crisis in External Response,” in *Peace, Profit or Plunder? The Privatisation of Security in War-torn African Societies*, ed. Jakkie Cilliers and Peggy Mason (Halfway House: Institute for Security Studies, 1999), 56.

sponsored by the highest bidder.²⁷¹ What PSCs claim distinguishes them from mercenaries or the “ad hoc groupings of freelance soldiers of the 1960s and 1970s” is that their structure is one built upon standard corporate guidelines.²⁷²

There are three generally cited definitions of what a mercenary is: 1) the “*Convention on the Elimination of Mercenarism in Africa*” of 1977; 2) Article 47 of Protocol I; and 3) the “*International Convention against the Recruitment, Use, Financing and Training of Mercenaries*.”²⁷³ The most commonly accepted definition of what is and what is not a mercenary can be found in Article 1 of the UN General Assembly’s 1989 *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*. It states:

Article 1

For the purposes of the present Convention,

1. A mercenary is any person who:

(a) Is specially recruited locally or abroad in order to fight in an armed conflict;

(b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party;

(c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;

(d) Is not a member of the armed forces of a party to the conflict; and

²⁷¹ For an excellent discussion on the growth of PSCs and their relations to mercenaries of the past, see Sabelo Gumedze, “Pouring old wine into new bottles? The debate around mercenaries and private military and security companies,” in *Elimination of Mercenarism in Africa: A Need for a New Continental Approach*, ed. Sabelo Gumedze (Pretoria: Institute for Security Studies (ISS), July 2008).

²⁷² Al J. Venter, *War dog : fighting other people’s wars : the modern mercenary in combat*, 1st ed. (Philadelphia, PA.: Casemate, 2006), 574.

²⁷³ Faite, “Involvement of Private Contractors in Armed Conflict: Implications under International Humanitarian Law,” 4. The three most commonly cited regulations concerning “mercenaries” were created by the OAU (now AU), the UN, and South Africa.

(e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

2. A mercenary is also any person who, in any other situation:

(a) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:

(i) Overthrowing a Government or otherwise undermining the constitutional order of a State; or

(ii) Undermining the territorial integrity of a State;

(b) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise or payment of material compensation;

(c) Is neither a national nor a resident of the State against which such an act is directed;

(d) Has not been sent by a State on official duty; and

(e) Is not a member of the armed forces of the State on whose territory the act is undertaken.²⁷⁴

The problem with this definition and PSCs or their employees is that all five conditions of part 1 must be fulfilled in order for someone (or some “body,” such as a corporation) to be considered a mercenary—a difficult categorization that would seldom apply to PSCs.²⁷⁵ Article 47 of Protocol I reads similarly, but adds one more condition: “any person who...does, in fact, take part in the hostilities,” making it even more difficult to define PSC personnel as mercenaries, since combat and self-defense are two different things. Even the most extreme cases of PSC involvement in conflicts, such as Executive Outcomes’ action in Angola or Sierra Leone, have skirted definition as mercenaries because they were integrated into the “armed forces of a Party to the conflict.”

²⁷⁴ United Nations General Assembly, “International Convention against the Recruitment, Use, Financing and Training of Mercenaries,” (New York: United Nations, 4 December 1989).

²⁷⁵ Faite, “Involvement of Private Contractors in Armed Conflict: Implications under International Humanitarian Law,” 4.

The South African government passed one of the most restrictive regulations against mercenaries in 1998 following PMC interventions by EO and Sandline in Angola, Papua New Guinea, and Sierra Leone. Both EO and Sandline were known to have had large numbers of former South African Defence Force members in their ranks. South Africa's regulation, the "Foreign Military Assistance Act," banned citizens of South Africa from any involvement in foreign wars without government approval.²⁷⁶ The South African law was largely ignored by South African (usually) ex-military private security contractor personnel in search of work, especially after the U.S. invaded Iraq and hired thousands of security personnel. Former South African military personnel and ex-combatants found themselves guarding embassies and protecting diplomats and convoys in violation of their nation's law. In March 2012, fully cognizant that the law was largely being ignored, South Africa added a very specific section on "Mercenaries and Private Military/Security Companies" in its Defence Review on PSCs:

47. A clear distinction must be made between mercenaries, being individuals availing their military skills, and private security companies who provide collective military services. Both categories may provide their services to either governments or non state actors.

a. The activities of mercenaries and their participation in armed conflicts have often been controversial, especially when they provide military services in violation of domestic and international law (in some instances they are used to sustain undemocratic states).

b. A further complicating factor is the increasingly blurred relationship between the military and non-military aspects of conflict resolution. As more comprehensive approaches to conflict resolution are adopted, it is expected that private security companies will in future undertake a wider range of activities, some of which were until recently carried out by armed forces and military personnel. These include, for example, civilian contractors providing services such as logistical support, weapons maintenance, sanitation, and laundry services to missions and deployed military personnel.

²⁷⁶ Republic of South Africa, "Foreign Military Assistance Bill No. 54," ed. Ministry of Defence (Pretoria, South Africa April 1997).

c. Attempts to address this issue were complicated by the difficulty of achieving a universal and concise definition of mercenarism as opposed to activities of private security companies. **Notwithstanding this, mercenarism is understood to be a manifestation of unregulated foreign military assistance and has the potential to undermine legitimate constitutional democracies, as experienced in Africa.** [Bold mine.]

48. Several South African private security companies continue to be contracted by foreign countries to operate in conflict zones, usually protecting prominent individuals, critical infrastructure, property and strategic resources. It is very **probable that the global involvement of South African private security companies or South African citizens, particularly in defence transformation, peacekeeping and peace building in conflict and post-conflict areas will continue into the foreseeable future.** [Bold mine.]²⁷⁷

Despite the difficulties in defining PSCs or their employees as mercenaries, many within the UN system still regard private security personnel as mercenaries unfit for duty alongside blue helmets.²⁷⁸ Enrique Ballesteros, the former UN Special Rapporteur on Mercenaries was strongly against the use of PSCs in any international peacekeeping capacity (broadly defined). For example, he called PSCs the “biggest and most sophisticated threat to the peace, sovereignty and self-determination.”²⁷⁹ David Wimhurst, a UN Undersecretary-General for Peacekeeping Operations, commented on their involvement in peacekeeping in the following manner: “So you get a gang of mercenaries in there, basically. Who do they report to? Who controls them? It’s a

²⁷⁷ Republic of South Africa, “South African Defence Review 2012: Defence, Security, Development (Consultative Draft),” (Department of Defence, 12 April 2012).

²⁷⁸ *See for example* numerous reports to the General Assembly by Enrique Ballesteros, the former UN Special Rapporteur: A/49/362, 6 September 1994, para. 27; A/50/390, 29 August 1995, para. 22; A/51/392, 23 September 1996, para. 27. *See also* excellent discussion on Ballesteros’s progression toward reluctant acceptance of PSCs in the international scene in Ranganathan, “Constructing Governance, but Constructive Governance? The Emergence and Limitations of a Dominant Discourse on the Regulation of Private Military and Security Companies,” 5–7.

²⁷⁹ Enrique Ballesteros, “Report of the UN Special Rapporteur to the General Assembly: A/52/338, 16 October 1997, para. 19(h),” (New York: United Nations, 1997); ———, “Report of the UN Special Rapporteur to the General Assembly: A/53/338, 4 September 1998, para. 21(i)” (New York: United Nations, 1998).

nonstarter.”²⁸⁰ In a recent interview, Major-General Patrick Cammaert, a former UN Force Commander in Eritrea and Ethiopia as well as DRC, made his position very clear on his opinion of the status of PSCs: “They are mercenaries, that is all they are; all of them.”²⁸¹

Ballesteros, who had also been the former Special Rapporteur for the mission in Sierra Leone, referred to the idea proposed by some that there are “good” and “bad” mercenaries as ridiculous. He saw the idea that there are “bad” ones like Bob Denard, “Mad” Mike Hoare, and Jean Schramme who earned names like “the terrible ones,” or “wild geese” (these are the men who facilitated coups in African nations and shifted loyalty to wherever the money was found) and “good” ones such as EO and Sandline, or the newer PSCs, like MPRI or Aegis (who have corporate identities and claim legitimacy through democratic government contracts) as a minor detail. His contention is that just because these PSCs get hired by legitimate governments does not make their actions any more moral or their motivations any more noble—their motivation is money. The conclusion drawn is that, either way, they are mercenaries. Ballesteros noted that any use of mercenaries reminded him of the aphorism of the end justifying the means, which, to him, is unacceptable. “Mercenaries do not work in the name of life or peace, but to earn money. And to earn money they have to be effective and being effective as a mercenary means killing, torturing and committing human rights violations.”²⁸²

AJ Venter, who writes extensively on mercenaries in his book, *War Dog*, argues to the contrary, and puts it this way: “The new companies are defined, incorporated entities intended to continue in perpetuity. What they are not are bands of individuals who have been recruited to carry out a single contractual obligation. This is a fundamental rationale for reconsidering the definition and applicability of the term

²⁸⁰ Hukill, “Should Peacekeepers Be Privatized?,” 1527.

²⁸¹ Patrick Cammaert, “Interview with Major-General Patrick Cammaert, Force Commander, Eastern Democratic Republic of the Congo” (Naval Postgraduate School, 10 May 2012).

²⁸² Enrique Ballesteros, “Press Briefing by Enrique Ballesteros, Special Rapporteur on Question of Mercenaries,” in *United Nations Press Release* (New York: United Nations, 25 March 1999).

‘mercenary.’”²⁸³ In the end, the legal rationale for identifying PSCs as mercenary corporations or their employees as mercenaries “will usually fall outside the conjunctive definition provided for in international instruments.”²⁸⁴

6. Contracts

Contractors generally follow the guidelines of their contracts. They want to get paid. In Iraq, Afghanistan, Angola, the Balkans, Sierra Leone, and elsewhere, contractors have been criticized for their use of force in upholding their contract (or what they believed to be their role in meeting the contract). For example, in the case of protecting diplomats, one of the most notorious and infamous PSCs, Blackwater Worldwide, was accused of using excessive force on their missions. However, it is also one of Blackwater’s well-touted credits that they never lost a “principal,” i.e., the person or persons they were employed to protect. Assuming that fulfilling the contract and getting paid was their priority, it is reasonable to assume that if a PSC’s contracted mission was to provide human security (the narrow view), they would do so with the same tenacity and drive to fulfill the contract and get paid. This sort of tenacity in the face of possible failure (and the risk of not being paid, or worse, getting killed), might have been just the sort of thing needed in a case such as Srebrenica where the Dutch Commander did not fight against the Serbs who entered the village “safe haven” determined to kill Muslim men and boys. In fact, a Dutch Commander himself, Major General Cammaert, commented in an interview that the Contingent Commander at Srebrenica exercised “poor judgment, poor leadership.”²⁸⁵

²⁸³ Venter, *War dog : fighting other people’s wars : the modern mercenary in combat*, chapter 9.

²⁸⁴ Faite, “Involvement of Private Contractors in Armed Conflict: Implications under International Humanitarian Law,” 5.

²⁸⁵ Cammaert, “Interview with Patrick Cammaert.” The fact that General Cammaert refers to leadership as a fundamental requirement in effective peacekeeping and preventing human rights abuses or atrocities, such as R2P crimes, is also supported by former DoD IG and COO of Blackwater, Joseph Schmitz, who told me in an interview that it all comes down to leadership—it does not matter whether it is a PSC or a UN peacekeeping Contingent Commander, leadership is key. Joseph Schmitz, 7 June 2012.

On the other hand, Avant and others suggest that PSC personnel might just quit in the face of such adversity.²⁸⁶ In one example during the successful rout of the RUF by EO in Sierra Leone, “a small number of mercenaries chose to quit the Sierra Leonean conflict before their contracts had expired. This occurred, most notably, following the above-described ambush...where the force suffered two deaths and seven wounded.”²⁸⁷ In this specific case, the mission was not affected and the RUF were defeated, but the fact remains that, unlike military personnel, contractors can quit or refuse to comply with orders.

C. LITERATURE REVIEW CONCLUSION

For the international community to respond and act in accordance with the UN Charter to deter aggressors and create peace may require the use of all available resources in an increasingly globalizing world. During the Cold War there were fifteen UN peacekeeping missions total; in the post-Cold War period there have been thirty-five. There were sixteen on-going missions as of November 2012, and there is no indication that the number of peacekeeping missions will decline in the near future.²⁸⁸ Moreover, it is likely that there will be an increased need for peacekeeping resources from not only troop contributing countries (TCCs), but especially the major powers that have shown

²⁸⁶ “There is nothing compelling contractors to remain on the battlefield once bullets begin to fly.” See Avant, *The market for force : the consequences of privatizing security*; ———, “The Privatization of Security: Lessons from Iraq,” *Orbis* 50, no. 2 (2006): 10; Steven J. Zamparelli, “Contractors on the Battlefield: What Have We Signed Up For?” (Air University, 1999). Or security contractor personnel might just not show up, as happened in July 2012 at the London Olympic games when G4S was unable to provide more than 4,000 contracted security personnel; as a result, the UK government had to draft their own soldiers to provide security for the games alongside G4S.

²⁸⁷ Scott Fitzsimmons, “Adapt or Die: The Cultural Foundations of Military Performance in the Sierra Leonean Civil War” (University of Calgary, 2009), 20. Fitzsimmons goes on to add that they did not just drop and run, that even though the “mercenaries” quit, they did so in an orderly fashion, tendering resignations, receiving authorization, and leaving on scheduled flights.

²⁸⁸ Pirnie et al., *Assessing requirements for peacekeeping, humanitarian assistance, and disaster relief*: 48; United Nations Peacekeeping, “Peacekeeping Fact Sheet,” United Nations, <http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml/>. The United Nations Supervision Mission in Syria (UNSMIS) ended on 19 August 2012, reducing the number of current peacekeeping operations as of the end of August 2012 to fifteen. (UNAMA is a political mission under DPKO, not a peacekeeping mission.)

reluctance involving themselves in regional conflicts and “new wars.”²⁸⁹ There is clearly a need for well-trained peacekeepers, but where they will come from remains a difficult problem. Recent cuts to the DPKO budget will not only mean decreases in logistical support to peacekeepers, but a reduction in the numbers of troops that can be maintained or deployed.²⁹⁰ Although PSCs may be capable of actually performing the physical tasks of peacekeeping, it is clear that before they get the opportunity to perform as peacekeepers aligned with the aims of the international community, the advantages and disadvantages to their use must be weighed.

There may not be one agency or organization that will effectively improve peacekeeping. As is evident from myriad cases, no one method is always successful, and by the same token, no single method guarantees failure. The answer lies in finding the right mix of capabilities, legitimacy, level of force, responsiveness, and scope of mandate in order to find success.²⁹¹ As has been consistently shown, the truest measure of success is whether people and communities are sustainably safe and live in an environment secure from violence. Because the protection of people and efforts toward human security and peace are at the root of all peacekeeping, the following section discusses human security (the broad and the narrow views) and human rights.

²⁸⁹ Howard, *UN peacekeeping in civil wars*: 324–26; Kaldor, *Human Security: Reflections on Globalization and Intervention*: 3–10.

²⁹⁰ Times Live Staff Reporter, “UN’s Peacekeeping Budget Blues,” Times Live, <http://www.timeslive.co.za/world/2012/02/10/un-s-peacekeeping-budget-blues>; Australia, “UN aims for big cut in peacekeeping bill”; Louis Charbonneau, “U.N. passes leaner 2012–2013 budget amid economic turmoil,” Reuters, <http://www.reuters.com/article/2011/12/25/us-un-budget-idUSTRE7BO01A20111225>; UN News Centre, “Ban welcomes approval of UN budget for next two years,” United Nations, <http://www.un.org/apps/news/story.asp?NewsID=40837&Cr=general>.

²⁹¹ Numerous academics and experts on both peacekeeping and contracting propose a mix of private services and public support to maximize peacekeeping potential. *See for example* Hirsch, “Calling All Regio-Cops: Peacekeeping’s Hybrid Future.”

IV. HUMAN SECURITY AND HUMAN RIGHTS

The United Nations was founded, in the words of its Charter, in order ‘to save succeeding generations from the scourge of war.’ Meeting this challenge is the most important function of the Organization, and to a very significant degree it is the yardstick with which the Organization is judged by the peoples it exists to serve.

Report of the Panel on United Nations Peace Operations²⁹²

While the effects of humanitarian activities may not always contribute to human security, both humanitarianism and human security share the obvious goals of the betterment and protection of human beings.

Christopher Spearin, *A Private Security Panacea*²⁹³

[T]he overriding moral basis for this work is the rule: ‘Don’t kill!’ Every day that war goes on, there will be more massacres, more hatred, more ethnic cleansing. Priority number one must be ‘stop the killing!’ And when the killing has stopped, you can start looking for a better way for people to live together.

Former Ambassador Thorvald Stoltenberg²⁹⁴

The concept of human security is fundamental to this dissertation because it is the underlying principle that drives all peacekeeping and goals to end war. Without human security as its aim, what is the purpose of the UN? Human security and protection of human rights are essential to everything that the United Nations does. When UN Secretary-General Kofi Annan addressed world leaders in 2001, he “emphasized the strategic importance of human security and human rights to the fundamental objectives of the Organization,” stressing that the UN “must always stand for the rule of law” and

²⁹² Nations, “Report of the panel on United Nations Peace Operations,” 1.

²⁹³ Christopher Spearin, “A Private Security Panacea? A Specific Response to Mean Times,” *Canadian Foreign Policy* 7, no. 3 (Spring 2000): 78.

²⁹⁴ Biermann, “From Stoltenberg–Owen to Dayton,” 13.

“must place people at the centre of everything it does.”²⁹⁵ After identifying “four burning issues,” in human security, two of which dealt with violence and conflict, he stated that the “common thread connecting all these issues is the need to respect fundamental human rights.”²⁹⁶

Peacekeeping is a primary means by which human security and the protection of persons can be effected. This dissertation conducts an empirical analysis of the relative net effects of primarily two types of armed forces on human security during peacekeeping missions.²⁹⁷ These two types of armed forces are PSCs (and PMCs) and UN peacekeeping troops; however, other armed forces have conducted “peacekeeping,” and have worked with and alongside both the UN and PSCs.

Human security is a concept which can be as broad as to include ensuring people have food and water, shelter and clothing, as well as protections from human rights violations, sexual assault, and violence. However, for purposes of this dissertation, the definition of human security is used in a manner that focuses on armed forces and the specific ways that they impact human security restricted to the narrow view, that is, protection from violence to persons and communities. Using this definition, the role of armed forces can be analyzed with respect to their ability to protect human beings in crisis, conflict, or post-conflict situations. These armed forces are made up of international peacekeepers, national militaries, militias, and other armed persons imbued with the responsibility to protect—this group of “protectors” must now include the private security industry, which has over the past thirty years grown to unprecedented levels, and has assumed many of the functions traditionally conducted by governments and state armies.²⁹⁸

²⁹⁵ Bertrand Ramcharan, “Human Rights and Human Security,” *Disarmament Forum: Strengthening Disarmament and Security* 1(2004); Annan, “The Secretary-General Address to the General Assembly.”

²⁹⁶ The other two “burning issues” were also human security related, HIV/AIDS and poverty, but both are under what is considered the “broad view” and are not the primary focus of this paper. ———, “The Secretary-General Address to the General Assembly.”

²⁹⁷ These various manifestations include militias, governmental or national troops, and regional peacekeeping forces.

²⁹⁸ Alexandra, Baker, and Caparini, *Private military and security companies : ethics, policies and civil-military relations*: 1.

It is impossible to separate human security and the protection of human rights from the evaluation of any aspect of peacekeeping or the agents which function to work to create peace. This section of the dissertation discusses human security, both the broad and narrow views, and makes the case that although the broad view is equally important for sustainable peace, the narrow view, or protection of people and communities from violence, is the domain of peacekeepers and security providers. If PSCs are to ever be a part of the fabric of whole concept of peacebuilding, the concept of human security, as well as its impact on determinations of successful peacekeeping, is a necessary factor. Consequently, the proper analysis of pros and cons to PSC use in peacekeeping and ending violence, human security and human rights (as they relate to peacekeeping) must be understood.²⁹⁹

A. HUMAN SECURITY

As noted previously, the first line in the UN Charter makes clear, the United Nations was founded “to save succeeding generations from the scourge of war...”³⁰⁰ The UN’s primary mission is fundamentally human-centered. The goal of peacekeeping is to support and maintain international peace and security through “...the promotion of the economic and social advancement of all peoples...,” halting aggression, and protecting civilians from harm.³⁰¹ The Charter was “issued in the name of ‘the peoples,’ not the governments, of the United Nations.”³⁰² Therefore, separating the human element, and hence human security, from any analysis of whether or not to use PSCs for peacekeeping

²⁹⁹ For an excellent discussion on PSCs and human rights, see Lauren Groth, “Transforming Accountability: A Proposal for Reconsidering How Human Rights Obligations Are Applied to Private Military Security Firms,” *Hastings International and Comparative Law Review* 35, no. 29 (Winter 2012). For a discussion on the UN, morality, and the use of force, see Ilan Cooper and Eric Patterson, “UN Authority and the Morality of Force,” *Survival: Global Politics and Strategy* 53, no. 6 (2011).

³⁰⁰United Nations. and Hague. International Court of Justice., *Charter of the United Nations and Statute of the International Court of Justice*, 1.

³⁰¹ Ibid., 31–32; Lauren Hunter, “Should we Prosecute the Protectors?: Holding Peacekeepers Accountable in Cases of Sexual Exploitation and Abuse,” *Carleton Review of International Affairs* 1(2009).

³⁰² Annan, “Intervention,” 3.

would be irresponsible. This section discusses human security with a focus on the roles and responsibilities of peacekeeping and peacekeepers toward achieving the goals of the Charter.

Since the fall of the Berlin Wall, the size, scope, and number of peacekeeping missions have increased drastically.³⁰³ In the first forty-plus years following the United Nations' (UN) inception in 1945, there had been only fifteen peacekeeping operations. From 1989 forward, member states increasingly expanded the UN's agenda into intervention in efforts to prove that the international community could cooperate to help settle internal conflicts and protect human rights.³⁰⁴ Thomas Jäger put it this way: "The collapse of the bipolar world order nourished hopes for a less militarized, even peaceful 'One World' in broad segments of society as well as in politics."³⁰⁵ Between 1989 and the present—under half the time as from 1945–1989—there have been twice as many peacekeeping operations sanctioned by the UN.³⁰⁶ This expanded agenda has increasingly blurred the lines between recognized sovereign responsibilities and the right to intervene in order to prevent conflict or protect persons.³⁰⁷ The Security Council's broadening of the reasons for collective intervention was further supported by the idea that the protection of individuals from violence is a higher priority than recognizing geographic borders simply for sovereignty's sake. Doyle writes that, "Sovereignty was redefined to incorporate a global interest in human rights protection."³⁰⁸ As the world becomes smaller through globalization and increased flows of people, technology, resources, and ideas, so too have conflicts more easily crossed perforated or seemingly non-existent borders. Civil wars and failed states are much harder to ignore when

³⁰³ Fortna, *Does Peacekeeping Work?*: 1–8; Howard, *UN peacekeeping in civil wars*: 4–5.

³⁰⁴ Fortna, *Does Peacekeeping Work?*: 1.

³⁰⁵ Jäger and Kümmel, *Private military and security companies : chances, problems, pitfalls and prospects*, 458.

³⁰⁶ In fact, there were only 24 Chapter VII resolutions between 1945 and 1989; there were 166 Chapter VII resolutions in the nine years between 1989 and 1999. Bellamy, Williams, and Griffin, *Understanding peacekeeping*, 147.

³⁰⁷ Doyle and Sambanis, *Making war and building peace : United Nations peace operations*: 1.

³⁰⁸ *Ibid.*, 7.

refugees are pouring into states who do not want them or when criminals are venturing out on the oceans to attack merchant vessels. The effects of intrastate wars are felt well beyond borders, mandating coordinated multilateral action on the part of the international community. At the root of conflicts and failed states are insecure people. When sovereignty does not work to protect its own citizens, intervention is the last resort.³⁰⁹

In 1992, UN Secretary General Boutros-Ghali produced his report, *An Agenda for Peace*, in which he outlined a UN that proposed to be much more aggressive toward the goals of peace and security. Specifically through: 1) preventive diplomacy; 2) peace enforcement; 3) peacemaking; and 4) peacekeeping. Rather than watch while violence occurred, the UN would intervene under the consent of the international community where it had not during Cold War years. In 1994, human security was introduced in the UN Development Programme Report as a more up-to-date and relevant concept of security.³¹⁰ Within human security came a responsibility to protect (R2P) by the international community those who were not being protected by their own state. These ideas enabled a broadening of the reasons for intervention.

Human security is a concept which some believe to be too broadly defined.³¹¹ The UNDP's 1994 report brought the concept of human security to the forefront, noting that "We need another profound transition in thinking—from nuclear security to human security."³¹² The report lists seven categories of human security threats: 1) Economic security; 2) food security; 3) health security; 4) environmental security; 5) personal security; 6) community security; and 7) political security.³¹³ The one thing that most agree on is that the focus is on security of the individual or the community rather than the

³⁰⁹ United Nations. and Hague. International Court of Justice., *Charter of the United Nations and Statute of the International Court of Justice*: Ch. VII.

³¹⁰ (UNDP), *Human Development Report, 1994*.

³¹¹ See, for example, Roland Paris, "Human Security: Paradigm Shift or Hot Air?," *International Security* 26, no. 2 (2001); Yuen Foong Khong, "Human Security: A Shotgun Approach to Alleviating Human Misery," *Global Governance* 7, no. 3 (Jul-Sep 2001).

³¹² (UNDP), *Human Development Report, 1994*: 22.

³¹³ United Nations Development Programme, *Human Development Report, 1994*, website: <http://hdr.undp.org/en/reports/global/hdr1994/chapters/>, accessed on 12 Sep 2010.

state.³¹⁴ As the United Nations' Human Development Report (UN HDR) notes, "Human security is *people-centred*."³¹⁵ Concepts of human security imply that protection of individuals is of greater importance than observance of state authority and sovereignty.³¹⁶ This new outlook on security runs contrary to the idea that states alone are responsible for their citizens as circumscribed by geographic borders and protected by state controlled militaries. In another report, the United Nations defines human security rather broadly, but simply as "a child who did not die, a disease that did not spread, a job that was not cut, an ethnic tension that did not explode in violence, a dissident who was not silenced. Human security is not a concern with weapons—it is a concern with human life and dignity."³¹⁷ Other concepts commonly used in connection with human security are those of "freedom from fear and freedom from want."³¹⁸ Freedom from fear can be seen as the narrow view, and freedom from violence; freedom from want can be associated with the broad view, and freedom from things like poverty, hunger, lack of clothing or shelter, and etc. These "freedoms" promote the idea that these two values are fundamental to the security of individuals, which by extension, promotes peace, or as the U.S. Secretary of State said in 1945, "No provisions that can be written into the Charter will enable the Security Council to make the world secure from war if men and women have no security in their homes and their jobs."³¹⁹

³¹⁴ (UNDP), *Human Development Report, 1994*: 22–24; Human Security Centre., "Human security report : war and peace in the 21st century," (New York, NY: Oxford University Press, 2005), VIII. "The traditional goal of 'national security' has been the defence of the *state* from external threats. The focus of human security, by contrast, is the protection of *individuals*." See also Paris, "Human Security: Paradigm Shift or Hot Air?." Paris includes societies and groups, however, he acknowledges that protection of human beings, rather than the "military defense of state interests and territory," is the primary focus.

³¹⁵ (UNDP), *Human Development Report, 1994*, 3.

³¹⁶ *Ibid.*, 24.

³¹⁷ *Ibid.*, 22.

³¹⁸ *Ibid.*, 24. This idea of "freedom from fear and freedom from want" was first coined by U.S. Secretary of State, Edward Stettinius, Jr. in 1945 in his address following the founding of the United Nations. The UNDP holds that these are the two major components of human security.

³¹⁹ The UN's founding was based upon an idea that equal weight should be given to national security and the security of people. In his report to the United States, (*see supra* note 14), then Secretary of State, Edward R. Stettinius, remarked that: "The battle of peace has to be fought on two fronts. The first is the security front where victory spells freedom from fear. The second is the economic and social front where victory means freedom from want. Only victory on both fronts can assure the world of an enduring peace."

The UN strongly supports the maintenance of state sovereignty.³²⁰ In fact, it is Article 2.7 of the Charter which protects national sovereignty from intervention—even by the UN. Article 2.7 forbids the UN from intervening into “matters which are essentially within the domestic jurisdiction of any state.”³²¹ However, the rider is that “this principle shall not prejudice the application of enforcement measures under Chapter VII.”³²² It can be seen that even national sovereignty can be overridden by the Security Council’s duty to preserve international peace and security through intervention under Article 42 of the Charter.³²³

The UN also promotes the idea that protecting human security is fundamental to maintaining peace and preventing conflict. As Kofi Annan has stated, “Sovereignty implies responsibility, not just power.”³²⁴ It is from this that the idea of “R2P,” or responsibility to protect, is derived. “R2P is a new international security and human rights norm to address the international community’s failure to prevent and stop genocides, war crimes, ethnic cleansing and crimes against humanity.”³²⁵ The recent intervention in Libya by NATO forces was an historic event. “It marked the first time that force was used under the doctrine of Responsibility to Protect...Under R2P, states must act to protect their citizens. If they fail, the international community must intervene.”³²⁶

While the concept of R2P proposes to enhance the sovereignty of states through emphasizing their primary responsibility of protecting their citizens (and offering support

³²⁰ See Article 2.7 of the UN Charter. United Nations. and Hague. International Court of Justice., *Charter of the United Nations and Statute of the International Court of Justice*: 6–7.

³²¹ Ibid., Article 2.7, 7.

³²² Ibid.

³²³ Ibid. Article 42 of the Charter reinforces and builds upon Articles 39–41 and is clear that member states to the UN may take those actions “as may be necessary” in order to restore international peace and security. “Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.”

³²⁴ Annan, “Intervention,” 3.

³²⁵ International Coalition for the Responsibility to Protect (ICRtoP), <http://www.responsibilitytoprotect.org/>, website, accessed 18 Feb 2011.

³²⁶ David M. Tafuri, “Following the Libyan Model,” *Politico* 19 March 2012.

when they are unable), it also encourages early engagement and intervention to address “deteriorating situations before it is too late.”³²⁷ R2P is necessary for human security since early action or intervention can mean the difference between preventing and allowing the four forms of violence to persons noted above.

States have been the traditional suppliers of peacekeepers, while nongovernmental organizations (NGO) have traditionally supplied health and humanitarian services, and international nongovernmental organizations (INGO) and international organizations (IO) have traditionally attempted to manage aid and protections to persons, generally through state and local coordination. The implementation of actions to reinforce human security and protect human rights has become a more diverse and complex challenge than it was thirty years ago.³²⁸ The traditional frameworks used to define relationships between states, as well as explanations for war and violence, have changed significantly.³²⁹ Although realists would argue that major powers still define and control these interrelationships, the vast majority of violent conflicts occur within states, not between them.³³⁰ Additionally, counter to traditional realist interpretations of security that would argue that strengthening the state ultimately makes everyone more secure, there is substantial evidence that shows that governments in recent history have been far more brutal to their own citizens than has any foreign army.³³¹

Human security, and not just national security, has become vital to states and regions; “secure states do not automatically mean secure peoples.”³³² We can see that

³²⁷ International Coalition for the Responsibility to Protect (ICRtoP), “GA dialogue on Early Warning, Assessment, and the Responsibility to Protect,” ICRtoP, <http://www.responsibilitytoprotect.org>.

³²⁸ Brooks, “Ruthless Humanitarianism: why marginalizing private peacekeeping kills people,” 116; Singer, *Corporate Warriors*: 49–53; Dickinson, *Outsourcing war and peace : preserving public values in a world of privatized foreign affairs*: 4–6.

³²⁹ Stanger, *One nation under contract : the outsourcing of American power and the future of foreign policy*: vii–ix, 1–11, 162–84; Avant, *The market for force : the consequences of privatizing security*: 257–8, 61–64.

³³⁰ Kenneth Neal Waltz, *Theory of international politics*, 1st ed. (Boston, MA.: McGraw-Hill, 1979).

³³¹ (UNDP), *Human Development Report, 1994*: 22; Waltz, *Theory of International Politics*: 117.

³³² Human Security Centre, “Human security report: war and peace in the 21st century,” VIII; Kaldor, *Human Security: Reflections on Globalization and Intervention*: 9–11.

this is clearly the case in recent examples, such as Tunisia, Egypt, Bahrain, and Syria, where states that were relatively secure from the outside, were not at all secure within their borders. According to the United Nations Development Programme, “It is now time to make a transition from the narrow concept of national security to the all-encompassing concept of human security.”³³³ However, it is first necessary to identify the areas in which human security is affected most by militaries and other physical security forces and the extent of their effects. Specifically, armed forces, including militaries, militias, police, and private security companies have been involved in missions from combat to security sector reform (SSR), disarmament, demobilization, and reintegration (DDR), humanitarian assistance/disaster relief (HA/DR), and peacekeeping operations (PKO). These areas all have a direct effect on the two fundamental aspects of human security: “freedom from fear, freedom from want.”³³⁴ However, more narrowly, they also have direct impact on the area of human security on which this dissertation will focus, that is, specifically, violence to persons and communities.

Ignoring genocidal regimes, migrating refugees, starvation, or conflict in “gap” countries, i.e., generally lesser developed countries (LDC), in favor of self-interested strengthening of national security by regional powerhouses has allowed conflicts to grow in regions such as the Middle East, East and Central Africa, the Balkans, or Central Asia.³³⁵ Mary Kaldor refers to conflicts in these places as “new wars” because they do not easily fall into the conventional definition of war as interstate conflict.³³⁶ She argues that old conceptions of security no longer apply.³³⁷ Furthermore, adherence to old conceptions only makes matters worse, making people less secure, increasing the

³³³ (UNDP), *Human Development Report, 1994*: 24.

³³⁴ See *supra* note 14.

³³⁵ Hodge, *Armed Humanitarians: The Rise of the Nation Builders*; Kaldor, *Human Security: Reflections on Globalization and Intervention*.

³³⁶ Kaldor, *Human Security: Reflections on Globalization and Intervention*: 9.

³³⁷ *Ibid.*, 10.

security gap between the more industrialized regions and states and those that are either newly industrialized or not industrialized.³³⁸

The role of states, especially the roles played by major powers, becomes less clear as boundaries become increasingly perforated by a wide range of dynamic forces, from civil war and refugees spilling over borders, to trade, human trafficking, drugs, crime, and the globalizing quality of the Internet.³³⁹ Additionally, “internal conflicts are frequently transformed into interstate conflicts because of their spillover effect into neighboring, often similarly domestically insecure states.”³⁴⁰ States often choose levels of engagement by proximity and severity of threat, and this is where selection of forces is critical to success. Intervening into the affairs of other states can be viewed as a violation of sovereignty that disallows a state from taking care of its own citizens as it sees fit, or worse, geo-politically driven for imperialistic aims. However, many argue that increased and early intervention (primarily into the gap states) protects all states, as well as individuals and communities from intrastate violence.³⁴¹ Multi-level as well as multilateral intervention and varying methods of engagement have required the use of a variety of resources in an increasingly neoliberal and globalized world.³⁴²

Nongovernmental and intergovernmental organizations, different forms of regime, regional organizations and institutions, militaries, and armed forces, as well as private entities, are included in a diverse set of resources that can work toward creating or reinforcing peace.³⁴³ Within this set of resources lie physical security and the protection of individuals from violence; however, this returns us to the question of who is doing the protecting, and whether or not human security is increased or diminished through their actions. Considering the above factors, whatever entity is conducting the peacekeeping

³³⁸ Ibid., 10–11.

³³⁹ David Held, *Global Transformations : Politics, Economics And Culture* (Cambridge, UK: Polity Press, 1999), 63–69, 80–81.

³⁴⁰ Mohammed Ayoob, *The Third World Security Predicament : State Making, Regional Conflict, And The International System*, Emerging global issues (Boulder: L. Rienner Publishers, 1995), 7.

³⁴¹ Held, *Global Transformations : Politics, Economics And Culture*: 450–51.

³⁴² Ibid., 85–86.

³⁴³ Ibid.

must do so keeping ever-present the idea that protection of civilians (PoC) and communities from violence is a fundamental goal that must have both short-term and long-term effects.

Nathan Hodge has referred to the broad spectrum of persons conducting physical security for humanitarian purposes as “armed humanitarians.”³⁴⁴ However, each of the different elements within this classification brings with it varying capabilities, motivations, sanctions, regulations, and rules of engagement. Across this broad spectrum, and for purposes of this study, measurements of effectiveness are necessary to determine each force’s impact on human security (narrow definition). Additionally, each force’s ability to conduct peacekeeping to include the positive and negative attributes of each is reviewed. The impact on human security is measured quantitatively using data on violence to persons in comparative situations where “armed humanitarians” are present and fulfilling peacekeeping missions.³⁴⁵ The impact on human security is measured qualitatively through case studies and by reviewing specific incidences of violence to persons, taking into consideration the situations in which these incidents occur and comparing them to other similar incidents where other security forces were being used. The case studies that have been chosen reflect areas where a diversity of security forces have operated and where both quantitative data and qualitative information is available.

1. Security, Human Security, and the Debate

In order to better understand the interrelationship between human security and other concepts of security, it is necessary to go through the progression from security as protecting the state (and sovereignty) to protection of the individual. The definition of security is one that is debated and argued at many levels: from academics, to government, to policy-makers and politicians. In order for human security to be seen as a valuable and essential fundamental to effective peacekeeping, a proper and accepted definition must be

³⁴⁴ Hodge, *Armed Humanitarians: The Rise of the Nation Builders*, title page.

³⁴⁵ Sources for this data will include the World Health Organization, Congressional Research Service, United Nations, Amnesty International, corporate records (where available), and other verifiable data as it relates to armed security forces (including PSCs).

proposed. Definitions of security are broad and range from the individual to communities, to the national, international, and to the global level.³⁴⁶ The following are some examples of the many definitions of security which span the gamut from more of a realist perspective, which focuses power and security at the national level, all the way to human and global security where freedom and the protection of the individual are paramount:

1) Walter Lippmann proposes that, “A nation has security when it does not have to sacrifice its legitimate interests to avoid war and is able, if challenged, to maintain them by war.”³⁴⁷

2) Giacomo Luciani writes that, “National security may be defined as the ability to withstand aggression from abroad.”³⁴⁸

3) Richard Ullman defines it this way, “A threat to national security is an action or sequence of events that (1) threatens drastically and over a relatively brief span of time to degrade the quality of life for the inhabitants of a state, or (2) threatens significantly to narrow the range of policy choices available to the government of a state or to private, nongovernmental entities (persons, groups, corporations) within the state.”³⁴⁹

4) Arnold Wolfers writes, “Security, in any objective sense, measures the absence of threats to acquired values, in a subjective sense, the absence of fear that such values will be attacked.”³⁵⁰

5) Ken Booth goes further and states, “Emancipation is the freeing of people (as individuals and groups) from the physical and human constraints which stop them carrying out what they would freely choose to do. War and the threat of war is one of

³⁴⁶ Alan Collins, *Contemporary Security Studies* (Oxford ; New York: Oxford University Press, 2007).

³⁴⁷ Walter Lippmann, *U.S. Foreign Policy: Shield Of The Republic* (Boston,: Little, Brown and company, 1943), 51.

³⁴⁸ Giacomo Luciani, “The Economic Content of Security,” *Journal of Public Policy* 8, no. 2 (Apr. - Jun.) (1988): 151.

³⁴⁹ Richard Ullman, “Redefining Security,” *International Security*, Vol. 8, No. 1 (Summer, 1983), pp. 129–153 8, no. 1 (Summer) (1983): 133.

³⁵⁰ Arnold Wolfers, *cited in* Collins, *Contemporary security studies*: 3.

those constraints, together with poverty, poor education, political oppression, and so on. Security and emancipation are two sides of the same coin. Emancipation, not power or order, produces true security. Emancipation, theoretically, is security.”³⁵¹

6) John Mroz writes that security is “the relative freedom from harmful threats.”³⁵²

7) Finally, on the other end of the spectrum, Peter Hough proposes that, “If people, be they government ministers or private individuals, perceive an issue to threaten their lives in some way and respond politically to this, then that issue should be deemed to be a *security* issue (emphasis in original).”³⁵³

As can be seen, definitions of security range from power as security to freedom as security. The most common argument for human security, and the one that is used here, holds that those who have “freedom from want” and “freedom from fear”³⁵⁴ are less likely to engage in violent conflict in order to change their condition or station in life. The discussion and definition of human security is relevant for this dissertation because if PSCs are to fulfill the fundamental requirements of peacekeepers and the fundamental purpose of peacekeepers is to protect individuals from violence, then human security must be key to the use of PSCs. In the case of PSCs conducting peacekeeping, many of the pros and cons relate specifically to the question of PSCs’ ability to improve or degrade human security. One might argue that UN peacekeepers do much more than protect people from violence. While this is true, their duties, first and foremost and fundamentally, are to protect people; everything else follows from this foundation. Moreover, if PSCs can be seen to protect human security at the fundamental (narrow view) level, the other pros and cons to their use can be focused upon for decision-making.

³⁵¹ Ken Booth, “Security and Emancipation,” *Review of International Studies* 17, no. 4 (Oct.) (1991): 319.

³⁵² John E. Mroz, cited in Barry Buzan, *People, States, And Fear : An Agenda For International Security Studies In The Post-Cold War Era*, 2nd ed. (Boulder, CO: L. Rienner, 1991), 17.

³⁵³ Peter Hough, cited in Collins, *Contemporary Security Studies*: 3.

³⁵⁴ Adopted by the UN as a fundamental part of the concept of human security. See *supra* fn 291.

As an internal threat, neglect of either tenet of human security leads to dynamics that can put national security at risk.³⁵⁵ By extension, if outside intervention is necessary in order to restore or create conditions which lead to “freedom from want” or “freedom from fear” (or both), then the lack of human security within a state can also lead to impingements upon sovereignty. A problem with a single definition of security is that there is often little room for reconciliation with other definitions of security without compromise. The compromise that is made on the national security side is that the idea of security is broadened beyond and crosses over borders. While national security implies that threats are primarily external to the state (exogenous) and require defense —usually military or economic —to affect protection, human security assumes that threats are more frequently internal, systemic, and not generally solvable by military action or armed forces.³⁵⁶ According to P. H. Liotta, this is the challenge, the “need to recognize both the continuing security dilemma of states and the emerging survival dilemmas of regions.”³⁵⁷ His article on the “Boomerang Effect” argues that we cannot focus on either national security or human security too heavily, otherwise, there will necessarily be a cost to the neglected side and that this “may well cause us to be ‘boomeranged’ by a poor balancing of ends and means in a changing security environment.”³⁵⁸

Human security and national security may not be directly related to each other in a zero-sum fashion, i.e., resources diverted to one are an expense or detriment to the other, but they are related through multiple channels of effect, including transnational terrorism, crime, climate change, pollution, migration of refugees, violence to individuals, and the threat of the proliferation of weapons of mass destruction across borders. Although human security advocates profess that improving the lives of human beings supersedes bolstering the security of national borders, strong states and

³⁵⁵ Human Security Centre, “Human security report: war and peace in the 21st century,” VII.

³⁵⁶ Gary King and Christopher J. L. Murray, “Rethinking Human Security,” *Political Science Quarterly* 116, no. 4 (2001–2002): 588.

³⁵⁷ P. H. Liotta, “Boomerang Effect: The Convergence of National and Human Security,” *Security Dialogue*, SAGE Publications, (Oslo, International Peace Research Institute), 33, no. 4 (2002): 474.

³⁵⁸ *Ibid.*, 473.

governments remain essential to international coordination and any chance at improving human security, regardless of the definition chosen.³⁵⁹ Therefore, for purposes of this research (and as has been stated before), human security focuses on “violent threats to individuals”;³⁶⁰ the nexus to national security is that strong governments have the ability to not only protect their own citizens, but to assist or intervene when necessary to protect citizens of other states. The primary method by which the international community intervenes is through the UN and peacekeeping in order to “save succeeding generations from the scourge of war.”³⁶¹

The idea of human security remains an area of both contention and consensus, as well as an area rife with debate. Much of the literature on the subject focuses on definitions, and attempts to identify exactly what areas of “human security” are most important in order to prioritize recommended action.³⁶² As has been addressed, there are also those who hold that the concept of human security is simply too vague and too broad to focus on any particular area, which results in such weak or dispersed action that little is achieved in accomplishing the proclaimed goals of those working toward improving “human security.”³⁶³ In the end, the idea of human security is one that continues to

³⁵⁹ King and Murray, “Rethinking Human Security,” 607.

³⁶⁰ Human Security Centre, “Human security report: war and peace in the 21st century,” VII.

³⁶¹ United Nations website, <http://www.un.org/en/documents/charter/preamble.shtml>, *Charter of the United Nations: Preamble*, (accessed 22 March 2011). Note that regional organizations have become increasingly used to conduct peacekeeping in cases where the UN does not agree to get involved or where the UN delegates peacekeeping or military tasks to regional organizations; see Bellamy, Williams, and Griffin, *Understanding peacekeeping*: 273–74.

³⁶² Kaldor, *Human Security: Reflections on Globalization and Intervention*: 15; Jorge Nef and International Development Research Centre (Canada), *Human security and mutual vulnerability : the global political economy of development and underdevelopment*, 2nd ed. (Ottawa: International Development Research Centre, 1999), 24–25; Wolfgang Benedek, Matthias C. Kettemann, and Markus Möstl, *Mainstreaming human security in peace operations and crisis management : policies, problems, potential* (London ; New York: Routledge, 2011), 3–4; Collins, *Contemporary security studies*: 94–107.

³⁶³ Roland Paris criticizes the idea of human security as too broad to be of any value as a concept in his article, “Human Security: Paradigm Shift or Hot Air?” Barry Buzan writes that, with regard to individual security, the “referent threats (danger and doubt) are very vague, and the subjective feeling of safety or confidence has no necessary connections with actually being safe or right.” Buzan, *People, states, and fear : an agenda for international security studies in the post-cold war era*: 36–37.

appear in academic literature, as well as in media and institutional rhetoric, ranging from local to global security, and on subjects as diverse as poverty and water scarcity, to crime and international terrorism.

One element of human security that is agreed upon is that human security places individuals above all other security concerns as what is commonly called the “referent object” of security dialogue.³⁶⁴ As the referent object, individuals require protection before other objects of security in order for security at any level to exist. For example, human security theorists would hold that the nations with the highest level of security for their citizens are not the ones that necessarily have the strongest and most capable militaries, but instead are the nations who can best protect their citizenry by providing them with two of the fundamental elements of human security: “freedom from fear” and “freedom from want.”³⁶⁵ Human security is defined in the United Nations Development Programme’s Human Development Report as that which “means, first, safety from such chronic threats as hunger, disease, and repression. And second, it means protection from sudden and hurtful disruptions in the patterns of daily life—whether in homes, in jobs or in communities.”³⁶⁶ Archbishop Desmond Tutu wrote in 2005, “Human security privileges people over states, reconciliation over revenge, diplomacy over deterrence, and multilateral engagement over coercive unilateralism.”³⁶⁷

As a concept, human security is defined in many ways, usually with variations on the single theme of protection of individuals; however, there are primarily two schools of thought with regard to threats to human security: 1) The narrow view, which holds that threats are generally in the form of violence to individuals or communities, and are usually internal to a state;³⁶⁸ and 2) the broad view, which holds that the concept of

³⁶⁴ Barry Buzan, and Lene Hansen, “Defining—Redefining Security,” in *The International Studies Encyclopedia*, ed. Robert A Denemark (Chichester, West Sussex, U.K. ; Malden, MA: Wiley-Blackwell, 2010), 14.

³⁶⁵ See *Supra* fn 14.

³⁶⁶ United Nations Development Programme, *Human Development Report, 1994*, website: <http://hdr.undp.org/en/reports/global/hdr1994/chapters/>, 23, accessed on 12 Sep 2010.

³⁶⁷ Centre, “Human security report: war and peace in the 21st century,” III.

³⁶⁸ *Ibid.*, VII.

human security should include threats to humanity such as natural disasters, poverty, hunger, disease, and water scarcity.³⁶⁹ The broad view includes violent threats to individuals such as genocide and terrorism, and goes as far as adding “threats to human dignity.”³⁷⁰ Herein lies one of the major problems noted by critics of human security: the concept is simply too broad to be of value toward minimizing *any* threats to security. Roland Paris argues that because the term human security is so vague and can mean practically anything, “it verges on meaninglessness—and consequently offers little practical guidance to academics who might be interested in applying the concept, or to policymakers who must prioritize among competing policy goals.” In terms of securitization, “making everything a security threat in effect prioritizes nothing.”³⁷¹ It is for this reason that scholars have focused a great deal of attention on narrowing the field and prioritizing threats, or, as Buzan calls them, “referent objects,” which are “things that are seen to be existentially threatened and have a legitimate claim to survival.”³⁷² Agreement in order to create a legitimate locus of opinion on what the priorities should be is elusive; until this happens, policy-makers do not have clear guidance on where improvements should be made.

2. The Broad View

Proponents of the broad view contend that to exclude things like disease, poverty, malnutrition, or the consequences of natural disasters is to remove that component of human security from which the greatest amount of misery or death is derived. Their analysis finds that many more people die from hunger or poverty than from terrorist attacks or genocide. The broad view began primarily with Mahbub ul Haq’s writing on the subject of human security in his 1993 *Human Development Report*, and then was

³⁶⁹ Nef and International Development Research Centre (Canada), *Human security and mutual vulnerability : the global political economy of development and underdevelopment*: 25; Caroline Thomas, “Global governance, development and human security: exploring the links,” *Third World Quarterly* 22, no. 2 (2001): 159–61; (UNDP), *Human Development Report*, 1994: 3.

³⁷⁰ Ibid.

³⁷¹ Taylor Owen, “Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for a Threshold-Based Definition,” *Security Dialogue* (2004): 379.

³⁷² Ralf Emmers, “Securitization,” 137. Emmers cites Buzan in his chapter on securitization.

developed further in the 1994 *Human Development Report*, in which the previously mentioned seven types of security were added to the conventional ideas of security.³⁷³

Over the years, writers on the subject, such as Caroline Thomas, have added definitions hoping to better determine the fundamental causes of human insecurity. She has identified first, material inequality, then development, and protection of human dignity, as factors all leading to overall quality of life across a global spectrum, rather than quantified by national haves and have-nots.³⁷⁴ Thomas's argument undercuts the supremacy of states to reductions in poverty and development. She argues that poverty reduction and development must be given priority within a global social structure rather than under the discretion of individual states since vast inequality exists between states.³⁷⁵

Roland Paris is one of the critics who believe that the concept of human security is too broad to be of any use. In his article "Human Security: Paradigm Shift or Hot Air?" he writes that virtually anything that causes "unexpected or irregular discomfort could conceivably constitute a threat to one's human security."³⁷⁶ He addresses others writing in the field of human security by pointing out that the extents they go to in attempts to classify and categorize within the field of human security only result in broadening an already expansive definition.

Paris and others argue that although these sorts of non-specific and indirect threats affect human security, they more often than not include such a vast array of societal threats (as "diverse as genocide and affronts to personal dignity")³⁷⁷ that it disallows any

³⁷³ Des Gasper, "Securing Humanity: Situating 'Human Security' as Concept and Discourse," *Journal of Human Development*, Vol. 6, No. 2, July 2005, pp. 221–245, 223. The seven categories noted as threats to human security in the 1994 report are: 1) Economic security; 2) food security; 3) health security; 4) environmental security; 5) personal security; 6) community security; and 7) political security.

³⁷⁴ Caroline Thomas, "Global governance, development and human security: exploring the links," *Third World Quarterly*, Vol. 22, No. 2, 161.

³⁷⁵ *Ibid.*, 162.

³⁷⁶ Roland Paris, "Human Security: Paradigm Shift or Hot Air?" *International Security*, Vol. 26, No. 2 (Fall 2001), 89.

³⁷⁷ Human Security Report 2005, VIII.

policy-making from being effective. Roland Paris, who holds that the concept of human security is too broad, writes that “if human security is all these things, what is it *not*?”

3. The Narrow View

Under the narrow concept of human security, the primary threat is violence to individuals. Kofi Annan wrote that it is “the protection of communities and individuals from internal violence.”³⁷⁸ Proponents of this view argue primarily that foundations of human security must be built upon a more fundamental and practical guide to action. It is upon these foundations, they hold, that other components of human security can be built and improved; and it is within these categories where differences between states and specific human security issues become distinguished.

One of the arguments critical of this narrow view is that more people die from malnutrition and disease than from conflict and war. The point that is often missed is that the former problems are, more often than not, the long-term, indirect effects of the latter (war or conflict). Identifying and focusing on the initial and consequential causes rather than symptoms alone is essential in encouraging positive change that ultimately improves human security.

Part of the problem is that the indirect effects of war, e.g., malnutrition and disease, are first, often difficult to attribute to war; second, once they do gain attention, the causal relationship to war, that is, distinguishing war-related deaths from “normal” deaths is hard to establish; and third, they do not gain the attention of humanitarian aid organizations (IOs, NGOs, INGOs), states, or the global community until death rates increase significantly.³⁷⁹ By the time the international community or humanitarian organizations respond, it is often too late to save many who may have had a chance at survival had intervention been sooner. One example of this “too little, too late” assistance

³⁷⁸ Ibid.

³⁷⁹ Human Security Report 2005, 7.

is Sudan's Darfur region and the hundreds of thousands of people who died of malnutrition and disease before international attention or aid arrived.³⁸⁰

One of the biggest problems of a narrow concept of human security is that it involves an increased level of intervention that is hard for many states to accept. Unlike the broad view, where actors' attempts to help are often less intrusive and seen more as after-the-fact benevolent assistance, the narrow view encourages states to intervene in conflicts early in order to prevent the follow-on and indirect consequences of war. Under this view, it is better to preemptively remove the cause than to wait for its negative after-effects. However, this view raises many questions since 1) sovereignty is often violated in order to intervene; 2) intervention implies that a settlement can be reached; 3) intervention from the international community is a slow process requiring approval of the UN Security Council (3–6 months), then identification and deployment of troops (> three months)—this process can take upwards of a year; 4) violence against persons often gets placed on hold while outsiders are in-country and resumes immediately upon the departure of the outsiders.

Human security continues to be an area without clear definition. The most common argument holds that those who have “freedom from want” and “freedom from fear”³⁸¹ will be less likely to engage in violent conflict in order to change their condition or station in life. This dissertation deals with the narrow view of human security, which focuses more on the “freedom from fear” aspect. However, as an internal threat, neglect of either tenet of human security leads to conditions that can put individuals at risk. On the other hand, if outside intervention is necessary in order to restore or create conditions which lead to “freedom from want” or “freedom from fear,” then the lack of human security within a state can also lead to impingements upon sovereignty.

Because human security is often confused with human rights and human rights are also an essential part of successful peacekeeping, a discussion of human rights follows.

³⁸⁰ Ibid.

³⁸¹ See *supra* fn 318 on the origins of “freedom from fear” and “freedom from want.”

B. PROTECTION OF HUMAN RIGHTS

Do not indulge in immoral acts of sexual, physical or psychological abuse or exploitation of the local population or United Nations staff, especially women and children.

Rule #4—Ten Rules: Code of Personal Conduct for Blue Helmets³⁸²

Will our [peacekeeping] failures and their civilian casualties just dissolve into unrecorded history—like 100,000 rape cases here—unexposed, anonymous, abandoned?

Kenneth Cain, Liberia, 1996³⁸³

1. UN Peacekeepers, Regional Peacekeepers, Human Rights, and Sexual Exploitation and Abuse

Human rights violations by UN and regional peacekeepers have been highlighted in the media and have caused a great deal of embarrassment to the UN or the organizations they represent. Examples include the negative impact on NATO following a child prostitution ring scandal in Bosnia, AU troops in Democratic Republic of Congo raping women, and UN peacekeepers accused of the sexual assault of a young Haitian man. These peacekeeper incidents of human rights violations, which are often the sexual exploitation and abuse (SEA) of local civilians, or those living in conflict/post-conflict (C/PC) states, have become more prevalent in communities where populations are vulnerable, needy, or desperate. SEA and other human rights abuses by UN peacekeepers

³⁸² Nations, “Ten Rules: Code of Personal Conduct for Blue Helmets.” <http://cdu.unlb.org/UNStandardsOfConduct/TenRulesCodeOfPersonalConductForBlueHelmets.aspx>, website, accessed 28 July 2012.

³⁸³ Kenneth Cain, Heidi Postlewait, and Andrew Thomson, *Emergency Sex And Other Desperate Measures : A True Story From Hell On Earth*, 1st ed. (New York: Hyperion, 2004), 263–66.

have caused a decrease in UN legitimacy and credibility, two of the critical factors of successful UN missions.³⁸⁴ If the UN and UN peacekeepers cannot be trusted, who can be trusted?

One result of the UN's diminished legitimacy has been an increase of attacks on UN operators or peacekeepers in the countries they are purporting to help.³⁸⁵ As a consequence of UN personnel and offices being targeted and increasingly attacked, they have resorted to increased use of local security and PSCs for protection.³⁸⁶ The increase in security further distances UN personnel from the communities in which they are supposed to be working. As a result, the UN is seen less integrated as a part of the community and more as an outsider. Since interventions have been promoted by predominantly major powers, the UN has become increasingly viewed as a Western-influenced organization.³⁸⁷ Perception of the UN as pro-Western (also perceived by some as anti-Muslim) raises questions over UN neutrality and impartiality.³⁸⁸ This new UN "culture of security" has resulted in a downward spiral akin to the classic concept of the security dilemma where an increase in military preparations or defensive measures by one side can be viewed as an "aggressive" act, spurring insecurity and possibly aggression as a response, which then leads to another increase in security, and so on.³⁸⁹ A major difference here is that this "securitization" of the UN for reasons of protection and security is happening within states and within the communities they are supposedly

³⁸⁴ Secretariat, "Peacekeeping Operations: Capstone Doctrine," 36–39.

³⁸⁵ Pingeot, "Dangerous Partnership." Pingeot's article notes that increased attacks on UN personnel and offices have caused the UN to increase security. The report of the Independent Panel on Safety and Security of UN Personnel and Premises Worldwide draws the same conclusion.

³⁸⁶ Examples of attacks which have increased the UN's use of security to protect their personnel include the 19 August 2003 attack on the UN offices in Baghdad, which killed twenty-two UN staff members and visitors, injuring one hundred and fifty others and the attack against the UN offices in Algiers on 11 December 2007, killing seventeen and injuring forty. Østensen, "UN Use of Private Military and Security Companies: Practices and Policies."; Brahimi, "Towards a Culture of Security."; Pingeot, "Interview with Ms. Lou Pingeot, Program Coordinator, Global Policy Forum."

³⁸⁷ Brahimi, "Towards a Culture of Security," executive summary, 1-7.

³⁸⁸ Ibid.

³⁸⁹ Robert Jervis, "Cooperation Under the Security Dilemma," *World Politics* 30, no. 2 (January 1978); Glenn H Snyder, "The Security Dilemma in Alliance Politics," *World Politics* 36, no. 4 (July 1984): 461, 69–70.

working alongside, not against or between, as in an anarchic international system. Creating a divide between the UN and distressed populations can negatively affect human security.

When the UN separates itself from the people and communities it is supposed to be helping, an “us versus them” mentality can develop. If this adversarial relationship begins to take shape in peace support operations, it risks affecting UN officials and personnel in a way that creates a situation whereby it becomes easier to treat the “peacekept” with less respect. As this subordinate and unequal relationship is formed, dependency can develop, creating an increase in the “needy” and vulnerable, rather than one where the UN enables communities and citizens to help themselves as “viable partners with rights.”³⁹⁰ It is the function of the UNDSS and the security management system to “enable the conduct of United Nations activities while ensuring the safety, security and well-being of personnel and the security of United Nations premises and assets.”³⁹¹ Aware that the “culture of security” can lead toward “bunkerization,”³⁹² and that “the ‘UN fortress’ approach [...] potentially distances it from the public it was founded to serve,” the UN recognizes that it must maintain its connection to communities and people.³⁹³ In 2011, the UN’s Office for the Coordination of Humanitarian Affairs (OCHA) created a report entitled “To Stay and Deliver” which addressed new methods of protecting UN personnel while remaining able to get involved in the communities they

³⁹⁰ Jill Shankleman and Hannah Clayton, “Business and Human Rights: An Issue Whose Time Has Come,” *United States Institute of Peace, Peacebrief* 129 (June 2012).

³⁹¹ United Nations, “Framework of Accountability for the United Nations Security Management System,” in *United Nations Security Management System Policy Manual* (New York: United Nations Department of Safety and Security, 2011). See also A/57/300, United Nations Secretary General, “Safety and Security of Humanitarian Personnel and Protection of United Nations Personnel,” in *Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance* (New York: United Nations, 2002).

³⁹² Pingeot, “Dangerous Partnership,” 38.

³⁹³ Lakhdar Brahimi, “Report of the Independent Panel on Safety and Security of UN Personnel and Premises Worldwide: “Towards a Culture of Security and Accountability,”” (New York: United Nations, 9 June 2008).

are there to protect.³⁹⁴ “Smart protection” and not “bunkerization” is the goal.³⁹⁵ Therefore, although the security of UN personnel is important for them to be able to conduct their mission, yet not become a “risk-averse organization,” the UN must find the right balance in ensuring their personnel (officials and peacekeepers) are protected from danger in hazardous locations while fostering an environment of cooperation, communication, integration, and human security among the people they are assisting.³⁹⁶ In order to function effectively, “member states need to earn back the public’s trust in the Organization” and they will only accomplish this through proper conduct and effective action.³⁹⁷

In seeking the right balance, and in concert with the “smart protection” approach, the UN has recently a policy of “how to stay,” rather than “when to leave”; the goal of which is to focus on development of communities, continuing protection of civilians (PoC), and promotion of human security, not only in the narrow sense, but broadly as well. The UN has taken the tack that through respecting human rights and adherence to human rights policies the adversarial nature of tense security relationships can be overcome. As one “Peacebrief” by the United States Institute of Peace (USIP) notes, “using a human rights lens provides a different focus,” one that concentrates on communities and the environment in which all actors work in humanitarian crises or C/PC situations.³⁹⁸

In the 1990s there were reported instances of regional organizations (ROs) in peacekeeping missions using excessive force. One example that stands out is ECOMOG’s involvement in Sierra Leone against the RUF. Comprised by a majority of Nigerian troops, ECOWAS Cease-fire Monitoring Group (ECOMOG) was the driving

³⁹⁴ Office for the Coordination of Humanitarian Affairs (OCHA) Policy Development and Studies Branch, “To Stay and Deliver: Good practice for humanitarian in complex security environments,” ed. Adele Harmer Jan Egeland, and Abby Stoddard (New York: United Nations, 2011), 28.

³⁹⁵ Ibid.

³⁹⁶ United Nations Department of Safety and Security, “Protecting UN Staff,” United Nations website, <http://www.un.org/en/memorial/security.shtml>, accessed 25 July 2012.

³⁹⁷ Brahimi, “Towards a Culture of Security,” 10.

³⁹⁸ Clayton, “Business and Human Rights,” 3.

force that went in and routed the RUF from Freetown, the capitol of Sierra Leone. Nigeria's General Sani Abacha had been criticized by Western states for his record on human rights, yet it was his leadership in the Sierra Leone intervention that allowed Sierra Leone's third president, Alhaji Ahmad Tejan Kabbah to return to power in March 1998.³⁹⁹ His forces allegedly used excessive force and violated international humanitarian law (IHL) in forcing the RUF away from the city and back into the countryside.⁴⁰⁰

Encouragement of the use of ROs, such as ECOWAS, to send their own forces and solve problems at the regional level under Chapter VIII of the Charter, requires a certain acceptance of the RO's methods. Additionally, the majority of ROs do not "possess the infrastructure, expertise, mandate, and finance to tackle effectively a humanitarian crisis."⁴⁰¹ Consequently, RO intervention has mixed results.⁴⁰² If ROs or states fail in their ability to end conflict, the UN can intervene under mandate from the Security Council. However, the decision to intervene by the UNSG can take months or years, resulting in continued immiseration of populations of countries involved in these "new wars."⁴⁰³ A recurring theme in the nineties following the Cold War was less than robust UN peacekeeping which prolonged conflict, allowed human rights violations on a massive scale to continue (Sierra Leone, Rwanda, Bosnia, Angola, Liberia, etc.), and ultimately resulted in the appearance of the UN as a weak and ineffectual organization. The UN's failure to engage early enough or robustly enough in states like Liberia, Angola, or Sierra Leone has been a consistent theme in discussions and case studies on peacekeeping failure.

³⁹⁹ John L. Hirsch, "War in Sierra Leone," *Survival: Global Politics and Strategy* 43, no. 3 (2001): 151.

⁴⁰⁰ Michael Hirsch, "Calling All Regio-Cops," *Foreign Affairs* 79, no. 6 (2000): 8.

⁴⁰¹ Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*: 205. Pattison cites Paul F. Diehl, "Nations Agree Genocide Must Be Stopped. Can They Find the Mechanism to Do It?," *Washington Post* 15 May 2005.

⁴⁰² Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*: 205.

⁴⁰³ See for example, Kaldor's discussion on "new wars" in Kaldor, *Human Security: Reflections on Globalization and Intervention*.

By the 2000s, the UN began to implement important and meaningful changes in how they intervened in C/PC situations, incorporating the concept of human security and the responsibility to protect (R2P) in UN interventions and peace operations. The focus had shifted significantly from protection of states or factions to protection of people or communities. This shift in focus did not prevent human rights abuses from occurring, however. With peacekeepers in close contact with people in distress, e.g., refugees, IDPs, and accompanying issues of poverty, hunger, disease, lack of shelter, etc., certain peacekeepers took advantage of these distressed populations through sexual favors, prostitution, or other abhorrent abuses. The UN, whose reputation was still in recovery from the failures of the nineties, could not afford further loss of credibility or legitimacy. In response to these abuses, the UN set up its SEA task force under the Executive Committees on Humanitarian Affairs and Peace and Security (ECHA/ECPS) in 2005.⁴⁰⁴ The task force works based upon its four pillars of protection from SEA:

- Pillar I: Engagement with and support of local population
- Pillar II: Prevention
- Pillar III: Response
- Pillar IV: Management and coordination.⁴⁰⁵

Although there had been previous measures in place under the Inter-Agency Standing Committee (IASC) task force, the Building Safer Organizations (BSO) project, and others, none were quite as comprehensive or effective as the newest policy guidelines on prevention of SEA and gender-based violence. The new task force began an aggressive policy of establishing measures to address perpetrators and hold them accountable through thorough investigations and following up on prosecutions in jurisdictional states. Additionally, a resolution on criminal accountability extending jurisdiction was added, ensuring there was no impunity for misconduct or criminal

⁴⁰⁴ Co-chaired by the Organization for the Coordination of Humanitarian Affairs (OCHA) and the Department for Field Support, the task force includes a wide array of more than “30 UN and non-UN entities.” United Nations, “Protection from Sexual Exploitation and Abuse by UN and Related Personnel,” United Nations, <http://www.un.org/en/pseatastaskforce/taskforce.shtml>. website, accessed 25 July 2012.

⁴⁰⁵ Ibid.

behavior by UN officials or experts on mission.⁴⁰⁶ There is also an Office of Internal Oversight Services (OIOS), an independent arm of the UN which investigates all allegations of SEA-related offenses, as well as other category I criminal offenses such as murder, bribery, narcotics trafficking, illegal mineral trade, forgery, assault, and entitlement fraud or procurement violations (see Table 1 below for a list of all misconduct and offenses).⁴⁰⁷ The task force also provided tools for training and a “strategy on assistance to victims” which serves to counsel both victims and those who deal with victims. In 2006 the UN also created a database of peacekeeper abuses so they could track their progress and gain lessons learned from the misconduct taking place. By 2008, the Department of Field Support (UNDFS) created the Misconduct Tracking System (MTS), a global database that tracks all allegations of misconduct. The UN has a zero tolerance policy for SEA and gender-based violence, but this does not mean that incidences do not occur or do not go unpunished. It means that the UN is beginning to work to take seriously its commitment to human rights and human security.

The previous section discussed human rights in an effort to show that human rights are taken seriously by the UN. While human security in the narrow view protects people from violence, human rights can be considered part of the broad view, integral to protecting people and a considerable part of successful peacekeeping. The next section discusses the connection between PSCs, human security, and human rights; this is necessary since PSCs operate in the same space as peacekeepers and human rights play a major role in factors such as legitimacy and accountability.

⁴⁰⁶ Ibid.

⁴⁰⁷ United Nations Conduct and Discipline Unit, “UN Strategy for Enforcement,” United Nations, <http://cdu.unlb.org/UNStrategy/Enforcement.aspx>. website, accessed 25 July 2012.

Table 2. Categories of Peacekeeper Misconduct and Sexual Exploitation and Abuse⁴⁰⁸

CATEGORY	MISCONDUCT TYPE	DESCRIPTION
A	Serious criminal offenses. All sexual exploitation and abuse offenses.	<ul style="list-style-type: none"> • Rape • Transactional sex • Exploitative relationships • Sexual abuse • Cases involving risk of loss of life to staff or others • Abuse of authority or staff • Conflict of interest • Gross mismanagement • Bribery/corruption • Illegal mineral trade • Trafficking with prohibited goods • Life threat/murder • Abuse or torture of detainees • Arms trade • Physical assault • Forgery • Embezzlement • Major theft/fraud • Use, possession or distribution of illegal narcotics • Waste of substantial resources • Entitlement fraud • Procurement violations
B	Misconduct that does not fit into Category 1. Type of misconduct that is also harmful to peacekeeping mission legitimacy and effectiveness.	<ul style="list-style-type: none"> • Discrimination • Harassment • Sexual harassment • Abuse of authority • Abusive behavior • Basic misuse of equipment or staff • Simple theft/fraud • Infractions of regulations, rules or administrative issuances • Traffic-related violations • Conduct that could bring the UN into dispute • Breaking curfew • Contract disputes • Basic mismanagement

⁴⁰⁸ United Nations, "Protection from Sexual Exploitation and Abuse by UN and Related Personnel," UN Conduct and Discipline Unit, <http://www.un.org/en/pseataforce/overview.shtml>. ———, "Report of the Office of Internal Oversight Services on Strengthening the Investigative Functions in the United Nations," in *Report of the Secretary-General on the Activities of OIOS*, ed. UN General Assembly (New York: UN Office of Internal Oversight Services, 10 February 2004).

2. PSCs, Human Security, and Human Rights⁴⁰⁹

In view of the ever-expanding global scope of PSCs and in order to ameliorate human rights violations, there is an increased need for internationally enforceable regulations, or at least clear lines of accountability in order to standardize PSC training, procedures, legal obligations, and controls. States may not have an interest in exposing themselves to more international law which could be viewed as impinging upon sovereignty. However, it is in states' and corporations' best interests to become familiar not only with hard law and accompanying legal mechanisms of accountability, but also "soft law" and instruments such as the International Code of Conduct for Private Security Service Providers (ICoC) and the Montreux Document developed in concert with representatives of the International Committee of the Red Cross (ICRC), NGOs, the UN, and PSCs (both the ICoC and the Montreux Document will be discussed in subsequent sections). For states, the benefit is a potential to protect citizens and communities from bad actors, misconduct, and sexual exploitation and abuse (SEA). For corporations, there is the reputational benefit of being vetted as a company that does not commit human rights abuses or at least one that takes oversight and accountability seriously.

States and PSCs can use the Montreux Document as a guideline of international legal obligations and "good practices," using it as a functional checklist promoting only those contracts that reflect adherence to international humanitarian law and human rights law, as well as its recommendations on "good practices."⁴¹⁰ This checklist can be used to prevent or reduce common problems encountered when hiring PSCs. Standards outlined in the Document could be used as guidelines for review and monitoring of PSCs (and contracts) so that abuses such as the one that occurred in Nisour Square, Baghdad in

⁴⁰⁹ For more on PSCs, human rights, and the UN, *see also*, John Ruggie's concept "Protect Respect, and Remedy," OECD Guidelines for Multinational Enterprises, the IFC Social and Environmental Performance Standards, Montreux Document, and the UN Global Compact.

⁴¹⁰ The term "good practices" was used in the Montreux Document because the term "best practices" was viewed as too subjective a term. "[States] signalled [sic] that they would not agree to a document that established binding standards or singled some practice out as the 'best'-or even as 'recommended.'" As a result, negotiating parties settled on the term "good practices." James Cockayne, "Regulating Private Military and Security Companies: the Content, Negotiation, Weaknesses and Promise of the Montreux Document," *Journal of Conflict and Security Law* C&S Law 2008, no. 13 (2008): 9.

2007 can be prevented or at least efficaciously dealt with when they occur. As it stands, abuses like the “Nisour Square massacre” (as it has been referred to often in the media), where 17 civilians were killed by Blackwater private security personnel, have not only brought international shame upon PSCs, but multinational corporations, and to some extent, the United States. PSCs are no longer just American companies; their actions have international and national security ramifications.⁴¹¹ Ultimately, the two parts of the Montreux Document⁴¹² serve as useful guidelines for the State, if only to clarify international law and responsibilities, since nothing in the Document is binding on any State, nor are there any enforcement mechanisms associated with it. Even so, the Montreux Document does provide valuable information that can be used by contracting bodies if only to protect themselves from liabilities associated with the use of private security. Discussions on germane topics such as weapons transport, licensing, vetting of employees, and training are all contained in the Document, providing valuable contracting guidelines for both PSCs and hiring states or organizations.

The ICoC, developed primarily by the ICRC is valuable for states and PSCs alike because it not only builds upon the Montreux Document, but it spells out responsibilities of both governments and PSCs towards the “provision of security services so as to support the rule of law, respect the human rights of all persons, and protect the interests of their clients.”⁴¹³ As of 1 August 2012, 462 PSCs have signed and committed to the ICoC, the main purpose of which is to set out “human rights based principles for the responsible provision of private security services.”⁴¹⁴ Whether or not these “aspirational standards” will have a positive effect on human rights and human security in

⁴¹¹ The U.S. government’s failure to “establish a workable accountability mechanism” for PSCs in Iraq and Afghanistan led to abuses and ultimately undermined U.S. national security interests. *See* First, “PSCs at War,” iii.

⁴¹² The Montreux Document is broken down into two sections: 1) “...pertinent international legal obligations”; and 2) good practices for states related to operations of [PSCs] during armed conflict.” The first section is a good primer on laws that do apply to PSCs and the second section is useful guidance when writing contracts with or hiring PSCs.

⁴¹³ Council, “ICoC for Private Security Service Providers,” 1-4.

⁴¹⁴ *See* “The International Code of Conduct for Private Security Providers Signatory Companies,” http://www.icoc-psp.org/uploads/Signatory_Companies_-_August_2012_-_Composite_List.pdf, Ibid.

conflict/post-conflict (C/PC) or peacekeeping environments remains to be seen. Because there are no binding mechanisms, the ICoC and the Montreux Document do not have the international weight to enforce “good” PSC behavior or hold anyone accountable for human rights violations. However, as previously noted, there is value in establishing standards that let PSCs develop a good reputation and the potential for the document to influence norms toward changing behavior and establishing “hard” law.

An example of self-regulation failure can be found in the wake of the Nisour Square massacre and Blackwater in its association with the International Stability Operations Association (ISOA) (then known as the International Peace Operations Association), a self-proclaimed “trade organization” (ISOA is also commonly referred to as a lobbying group). Blackwater was a member of ISOA from its beginnings in 2001, when one of the things that made IPOA stand out was that it had its own code of conduct (International Peace Operations Association Code of Conduct) to which each member of its more than sixty member companies must commit.⁴¹⁵

Following the Nisour square incident in which Blackwater employees shot and killed 17 innocent Iraqis, IPOA was pressured to conduct its own investigation into the events and hold Blackwater accountable for its actions. In fact, holding Blackwater “accountable” simply meant that the most that the IPOA could do was suspend or expel them from the organization. Two weeks before IPOA launched its investigation, Blackwater resigned their membership in the IPOA negating the need for any investigation into its alleged breach of the ISOA CoC

A common claim of ISOA is that reputation matters and that member companies who are “bound” by the ISOA CoC can be trusted to provide services respectful of human rights, human security, rule of law, and the cultures of the people with whom they interact.⁴¹⁶ Blackwater’s disassociation with IPOA and subsequently ISOA, did not seem

⁴¹⁵ The ISOA code of conduct continues to exist today with more than sixty signatory member companies (less than twenty are PSCs) and can be found at <http://stability-operations.org/files/files/S%20800%2013%20EN%20T%20-%20Code%20of%20Conduct%20-%20English%20%28Letter%20Size%29.pdf>, website, accessed 1 August 2012.

⁴¹⁶ Vogel, Jessica, email communication, 1.

to have any direct effect on Blackwater's ability to retain and let additional contracts with the U.S. government. What effected Blackwater's ability to operate, albeit briefly, in Iraq, was that the government of Iraq prohibited them from operating within the country. If IPOA's CoC was to prevent abuses in a preventive sense, it failed; if IPOA membership was supposed to positively affect future potential contracts, and by implication, removal from membership was supposed to negatively affect the ability to gain contracts and serve as a sort of punishment for misconduct or breach of the ISOA CoC, this too failed.

"Aspirational standards," self-regulation, and international norms or "soft" law, such as the Montreux Document and the ICoC or the ISOA CoC are, to use a word from the Montreux Document, a "good" effort at taking the necessary steps toward "more effective regulation and improved accountability" for PSCs, which, if adhered to, have the potential to be one more way to improve human security and protect human rights.⁴¹⁷ Thus, in the interest of protection of human rights and meeting the primary mission of the UN, it can be seen that regulation and monitoring of PSCs, as well as peacekeepers, must run the gamut from hard law to soft law and cover the spectrum through both national and international legal systems.

⁴¹⁷ Cockayne, "Regulating Private Military and Security Companies: the Content, Negotiation, Weaknesses and Promise of the Montreux Document."; United Nations, "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (Montreux Document)," in *A/63/467--S/2008/636*, ed. United Nations General Assembly Security Council (Montreux, Switzerland: United Nations, 2008).

V. WEIGHING THE PROS AND CONS: DATA AND RESEARCH

This chapter reviews comparisons between the costs of using UN peacekeepers, regional peacekeepers, peacekeeping operations, and private security companies. The data does not support line-for-line financial or task-for task cost comparisons, but it does give a good general comparison of operational costs versus achieved goals within defined timeframes. This chapter also looks at types and numbers of abuses caused by PSC employees compared with those committed by UN peacekeepers. Finally, this chapter looks at other factors that affect the use of PSCs in different peacekeeping situations and compares them to government troops used under international mandates and finds that legitimacy plays a fundamental role in use determination. The chapter ends with a discussion on legitimacy and the role that effectiveness plays in intervention and human security.

A. PRIVATE SECURITY COMPANIES VERSUS PEACEKEEPERS

1. Costs

*We lack the metrics to know if the global effort to privatize and outsource formerly inherently governmental functions is cost-effective.*⁴¹⁸

Donald Rumsfeld, “War on Terror memo,” 16 October 2003

⁴¹⁸ David Isenberg paraphrasing U.S. Secretary of Defense Donald Rumsfeld in “war on terror memo” to General Dick Myers, Paul Wolfowitz, General Pete Pace, and Doug Feith. Donald Rumsfeld, 16 October 2003; David Isenberg, “Getting Data for the Debate: All Hail DTM,” in *Huffington Post Business Section* (Washington, DC: Huffington Post, 5 October 2012).

Senator McCaskill also recognized problems with subcontracting and lack of transparency: “Well, as you know, we had a...problem in the LOGCAP contract where we have kickbacks with KBR, and that’s one of those large, duration-of-wartime contracts that is kind of the poster child for contracting gone badly. And the host trucking contract with multiple layers of subcontracts really had a security risk associated with it as it related to where the money was going. Clearly, we figured out that some of the money was going to the bad guys. So what we’re looking for here is, we don’t want to get away from the efficiencies that subcontracting might provide. But we’ve got to really get to a much more transparent situation.” Sen. McCaskill (D-MO). See Contracting Oversight Subcommittee of the Senate Homeland Security and Governmental Affairs Committee, *Comprehensive Contingency Contracting Reform Act of 2012*, 17 April 2012.

Cost must always be a consideration when making the decision whether or not to privatize or outsource anything, especially if that which is to be privatized has not previously been a commercial activity.⁴¹⁹ As Doug Brooks, President of the International Stability Operations Association and the lead lobbyist for PSCs in the U.S., writes, “If the contractor does not provide faster—cheaper—better services than you, why would you hire them?”⁴²⁰ In the U.S. this decision-making first falls largely within the context of that which is “inherently governmental” and those activities which are not. Those functions which fall into the inherently governmental category are not permitted to be privatized.⁴²¹ Combat and most combat-related military actions are considered to be “inherently governmental” since they fall under Department of Defense’s purview and as critical to “determining, protecting, and advancing U.S. economic, political, territorial, property, or other interests by military ...action.”⁴²² Once an activity is determined to be outside of that which is inherently governmental, cost becomes a factor for consideration along with things like efficiency and capability.

So, what are the costs of a UN peacekeeper vs. the costs associated with contracting a private person? It is unlikely that any PSC would agree to hire its personnel at the UN rate of U.S.\$1,028 per month. (Doug Brooks, the president of the ISOA also stated this during my interview with him on 3 Sept 2010.)⁴²³ On the face of the matter, it seems clear that there would either need to be higher pay for PSC peacekeepers or there would need to be other incentives for PSCs to agree to conduct peacekeeping even if the

⁴¹⁹ Paul R. Verkuil, *Outsourcing sovereignty : why privatization of government functions threatens democracy and what we can do about it* (New York: Cambridge University Press, 2007), 188–90.

⁴²⁰ Zachary Karazsia, “Peace Inc.? The Role of Contractors in International Peace Operations,” *University of Pittsburgh Graduate School of Public and International Affairs* 11 April 2012. The ISOA claims to offer “vital services in conflict, post-conflict and disaster relief operations.”

⁴²¹ John R. Luckey and Kate M. Manuel, “Definitions of ‘Inherently Governmental Functions’ in Federal Procurement Law and Guidance,” (Washington, DC: Congressional Research Service, 24 January 2012). *See also* United States Code, “Federal Activities Inventory Reform (FAIR) Act,” ed. U.S. Government (Washington, DC1998)., 31 U.S.C. §501 note, at §5(2)(A) and Special Inspector General for Afghanistan Reconstruction (SIGAR), “Quarterly Report to the United States Congress,” ed. SIGAR (Washington, DC 30 April 2012), http://www.whitehouse.gov/omb/circulars/a076/a76_incl_tech_correction.html.

⁴²² Code, “Federal Activities Inventory Reform (FAIR) Act.” U.S.C. §501 note, at §5(2)(B)(i)-(v).

⁴²³ Doug Brooks, interview, 3 Sept 2010, ISOA offices, Washington, DC.

UN agreed to hire them. Another possibility is that PSCs could simply hire third country nationals (TCNs) at a fraction of the cost of UK or U.S. nationals for peacekeeping, i.e. something PSCs are notorious for doing in other contracts for security. Depending upon the mission and mandate, this may be feasible; however, quality and training level of the hire becomes a primary concern. How well are PSC TCNs trained? The answer is that it all depends on the company, its standards, its method(s) of hire, and myriad other factors. Why this is relevant is because the level of training of PSC personnel is critical to fundamental or entry-level capability. Without capability (based upon demonstrated skills and effective contract performance), there is no *a priori* reason to evaluate pros and cons or even consider PSCs for peacekeeping. However, if the UN required that all peacekeepers matriculate through the same training pipeline, then it could be assumed that skill levels would be equal. Even if this were the case, PSCs still need to make a profit and there would necessarily be a fee associated with finding candidates for training and duty as a privatized peacekeeper. Cost is a consideration that cannot automatically be assumed is less when governmental or international organization functions are privatized.

Considering the problems which have occurred with UN peacekeepers, especially of late, for example, the alleged rape of a boy by Uruguayan peacekeepers in Haiti, the cholera epidemic blamed on Nepalese troops, human rights abuses in numerous African UN missions, existing training is not enough to ensure peacekeepers are qualified and suited for their roles.

Direct cost comparisons do little in determining whether or not PSCs will be “cheaper” than traditional peacekeeping troops. In the end, a price tag is difficult to put on making R2P and humanitarian intervention determinations; effectiveness is what matters.⁴²⁴ (What is the cost of ending the “scourge of war?”) Moreover, the cost of PSCs in Iraq or Afghanistan is not indicative of what costs may be when hired by the UN

⁴²⁴ For excellent discussions on both the responsibility to protect (R2P) and effectiveness as the dominant factor in humanitarian intervention and R2P, see both Gareth J. Evans, *The responsibility to protect : ending mass atrocity crimes once and for all* (Washington, DC.: Brookings Institution Press, 2008); Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*

for peacekeeping missions; contracts can vary widely and cannot be predicted for future possible use by the UN for peacekeeping services.

To be clear, peacekeeping costs and the cost of hiring PSCs are not technically comparable line-for-line, but this does not mean that some inferences cannot be drawn from comparing some of the cost data that does exist from the accomplishment of specific missions or attainment of certain outcomes. Cost figures are reproduced and compared here as representative examples of what a peacekeeper costs versus a PSC employee for what might be *similar* tasks; there is no way to compare task-for-task or position-for-position since peacekeeping has not been outsourced to PSCs. UN figures used are current as of 2011. Since PSCs generally do not publish their contracts and specific employee salaries, PSC figures have been derived from the GAO, CRS reports, and multiple correlating second-sources. For example, I have used Eeben Barlow's account of the contracted amount for EO's services in Angola and Sierra Leone, matched up to the government of Sierra Leone's claimed contract amount, combined with published information by recognized experts such as Peter Singer, Debra Avant, Allison Stanger, and etc.

These figures do not account for per diem payments to observers or officials on mission, which can vary by location and country contributing; UN staff also receives a per diem payment not accounted for specifically here. Moreover, the UN does not pay for uniforms, vaccines, training, or purchase of equipment for troop lending countries—these costs are borne by the TLCs. However, in the end, this only furthers arguments that PSCs may be cheaper since the UN might not be paying the PSCs for any of those things either. Since this dissertation is not an investigation into UN or PSC payment comparisons, general figures have been used and total amounts have been used for comparison purposes. When it comes down to paying for each peacekeeper or task-by-task payment, costs become the realm of contracts and the negotiation that will be necessary if the UN does choose to outsource peacekeeping (possibly similar to how it currently outsources PSCs for personal protection and protection of buildings and equipment/supplies). In the final analysis, total cost against effectiveness and accomplishment may be the best overall measure for comparison.

a. Peacekeeper Costs

The UN pays for peacekeeping at a rate of U.S.\$1028 per month per soldier regardless of rank⁴²⁵ out of the UN assessment account into which countries pay based upon their national budget assessment.⁴²⁶ The individual peacekeepers themselves do not generally get this amount. The money is directed from the UN to the nation in which the soldier is a citizen. The country receiving the UN funds can essentially do with the money as it wishes. Commonly, the soldier receives her military salary irrespective of what the UN has paid for her UN service. In some cases, such as in Fiji, the soldiers receive much less than what the UN pays per soldier supplied. UN payments are a substantial part of Fiji's GDP. For example, in the thirty years that Fiji has been providing peacekeepers, the country has received more than U.S.\$300 million, an average of U.S.\$10 million a year.⁴²⁷ In fact, the way the UN budget is used, there are "those who pay" and "those who play" in UN missions. Table 3 addresses the levels of UN state involvement, the role of states in peacekeeping, and compares the pros and cons to the use of PSCs. "The 'players' are reimbursed through the UN for their forces, and poorer countries like Bangladesh and Fiji make no secret that they profit from peacekeeping."⁴²⁸ For example, a recent news report notes that "Bangladeshi soldiers serving as UN

⁴²⁵ United Nations, "Financing Peacekeeping," United Nations, <http://www.un.org/en/peacekeeping/operations/financing.shtml>. Experts on mission, HQ personnel, and other administrators may also be considered "peacekeepers," but they receive varying amounts, including per diem, based upon location, mission, and other factors. These payments could far surpass the \$1028 standard peacekeeper payment.

⁴²⁶ Assessment accounts were established in 1974 by UNGA, Resolution 1310, replacing the previous method of pulling peacekeeping money from the UN regular budget. Todd Sandler and Keith Hartley, *The political economy of NATO : past, present, and into the 21st century* (Cambridge, U.K. ; New York: Cambridge University Press, 1999), 100.

⁴²⁷ Since 1978 Fiji has provided approximately 25,000 peacekeepers to the UN. According to Fiji's Ministry of Finance, Fiji brought in U.S.\$11.1 million in 2010, and estimates U.S.\$14.7 million in 2011 from peacekeeping. Additionally, Fiji received U.S.\$2 million in 2010 and U.S.\$3.5 million in 2011 donations from UNDP. Jon Fraenkel and Stewart Firth, *The 2006 military takeover in Fiji : a coup to end all coups?* (Acton, A.C.T.: ANU E Press, 2009), 119; David Kolitagane, "Economic and Fiscal Update: Supplement to the 2011 Budget Address," (Fiji: Republic of Fiji Ministry of Finance, 26 November 2010), 36.

⁴²⁸ Gowan, "Will UN Peacekeeping Fall Victim to Budget Cuts?," 1-3.

peacekeepers have sent home nearly U.S.\$1 billion (\$\$1.24b) during the past three years, the country's envoy to the UN said on Thursday.”⁴²⁹

The “payers” make up the majority of countries who do not provide troops, just money. These “payers” and “players” are categorized by their position within the UN and relative wealth as a nation. The UN categorizes the five permanent members of the Security Council (P5) as Level A; Level B is comprised by developed countries who are not permanent members of the Security Council; Level C includes wealthy developing nations; and Levels D and below (to J) include the lesser-developed countries (LDCs). Not surprisingly, the P5 in Level A pay the lion's share of the peacekeeping budget, at 63%, with the United States alone taking on more than 22% of the UN's regular budget, or U.S.\$516 million over and above regular assessments.⁴³⁰ To put it into perspective, the U.S. ultimately budgeted U.S.\$2.1 billion for the International Peacekeeping Activities Account (CIPA) of the Department of State; this money is further distributed not only to UN peacekeeping operations, but to 45 other intergovernmental organizations to which the U.S. also belongs.⁴³¹ These contributions do not include other voluntary contributions toward UN special programs and funds—for example, in CY2007 the U.S. contributed more than U.S.\$4.8 billion to the UN system.⁴³² Levels C through J combined, by contrast, pay only 2% of the peacekeeping budget.⁴³³

⁴²⁹ Asia One News, “Bangladesh Peacekeepers Send Home \$1.24b in Three Years,” Singapore Press Holdings, <http://news.asiaone.com/News/Latest%2BNews/World/Story/A1Story20120426-342317.html>.

⁴³⁰ Marjorie Ann Browne, “United Nations System Funding: Congressional Issues,” in *CRS Report for Congress*, ed. Congressional Research Service (Washington, DC: Congressional Research Service, 14 January 2011), 7–8; Sandler and Hartley, *The political economy of NATO*: 100.

⁴³¹ Browne, “United Nations System Funding,” 3.

⁴³² United Nations., “Budgetary and Financial Situation of Organizations of the United Nations System. Note by the Secretary-General,” (New York: United Nations Secretary-General, 30 July 2008); ———, “Status of Contributions as at 31 December 2007,” (New York: United Nations, 2007). *Cited in* Browne, “United Nations System Funding,” 1.

⁴³³ United Nations, “Implementation of General Assembly Resolutions 55/235 and 55/236 -- Effective Rates of Assessment for Peacekeeping, 1 January 2010 to 31 December 2012,” in *Scale of Assessments for the Apportionment of the Expenses of United Nations Peacekeeping Operations* (New York: United Nations General Assembly, 31 December 2009).

Another cost to states in Levels A and B that is not factored in any analyses is that the peacekeeping troops the wealthier nations do actually send on missions are often paid far more by their countries than the U.S.\$1028 per month collected from the UN for each soldier. Those salaries add to the cost to the wealthy nations along with their regular and special UN assessments as can be seen in Browne's CRS Report on UN funding.⁴³⁴

Because states within categories C—J also make up the majority of troop contributing nations, many rely on UN peacekeeping income to help economically sustain their countries.⁴³⁵ Consequently, the hiring of PSCs to conduct peacekeeping could create competition in the market for peacekeepers. While this may be perceived as a positive for ensuring numbers of peacekeepers are available when the need arises, it is certainly a negative for those countries relying on peacekeeping dollars if their participation is in any way limited or subsumed by PSC peacekeepers. This competition for peacekeeping dollars has led senior leaders at the UN as well as researchers on peacekeeping to comment that the countries receiving large amounts of money for providing peacekeepers might fight to prevent the UN from ever privatizing peacekeeping.⁴³⁶ There are also other incentives than financial when states choose to send peacekeepers to a mission, for example, a recent paper by Alex Bellamy and Paul Williams finds that there are four reasons why states send peacekeepers: economic, security, institutional, and normative.⁴³⁷ Each of these rationales provides TCCs with

⁴³⁴ See for example, Browne, "United Nations System Funding."

⁴³⁵ All developing countries do not make a profit from peacekeeping; in fact, many, such as India, South Africa, Pakistan, and China, which are among the largest troop contributing countries, do not make a profit and actually incur additional expenses because they have higher operational costs. However, these countries may receive political capital and influence through their involvement and contributions, e.g., posts at the UN, influence in the SC or GA. For example, in an article by Arturo Sotomayor in which he cites Kimberly Marten Zisk, a good number of states find that UN peacekeeping operations offer "a niche that brings them greater respect and authority in international institutions, especially the UN, allowing them more voice in international security issues than they otherwise would [have]." (Also cited in text, see f/n 440.)

⁴³⁶ #1, "Interview with UNDPKO Official #1." Smith, "Interview with Adam Smith, Researcher, International Peace Institute."

⁴³⁷ Alex J. Bellamy and Paul D. Williams, "Broadening the Base of United Nations Troop-and-Police-Contributing Countries," *International Peace Institute: Providing for Peacekeeping* No. 1(August 2012).

benefits for contributing troops, but as pointed out in a conclusion of an article by Arturo Sotomayor in which he cites Kimberly Marten Zisk, a good number of states also find that UN peacekeeping operations offer “a niche that brings them greater respect and authority in international institutions, especially the UN, allowing them more voice in international security issues than they otherwise would [have].”⁴³⁸ If PSCs were brought into the mix, there might not only be competition for financial resources, but the other three incentives to contributing troops as well (security, institutional, normative). See Table 3 for a comparison of contributing countries, roles, and pros and cons to PSCs assuming peacekeeping roles in relation to TCCs.

While PSC peacekeepers would ostensibly charge much more for their participation in actual peacekeeping than state-provided troops, PSCs make the case that their “product” is one of much higher quality because of better training and therefore worth the additional cost.⁴³⁹ PSCs also make the case that they could be much more responsive to burgeoning need or crises that may develop, allowing them to deploy on much shorter notice. However, recent events with the 2012 Olympics and G4S (the world’s largest PSC) have shown that this claim is not always valid.⁴⁴⁰

⁴³⁸ Kimberly Marten Zisk, *cited in* Arturo C. Sotomayor Velazquez, “Why Some States Participate in UN Peace Missions While Others Do Not: An Analysis of Civil-Military Relations and It’s Effects on Latin America’s Contributions to Peacekeeping Operations,” *Security Studies* 19, no. No. 1 (2010). *Found in* Williams, “Broadening the Base of UN TCCs.” Adam Smith of the IPI seems to concur with this evaluation, granting that increased peacekeeper contributions leads to prestige and could potentially result in more positions at UNHQ, adding to influence in international security issues.

⁴³⁹ Doug Brooks, 3 September 2010. *See also* Duelle, “Ethical Lessons On Contractor Value.”

⁴⁴⁰ “G4S fiasco revealed limitations of private sector, admits Defence Secretary Philip Hammond.” G4S promised more than 10,000 security guards for the 2012 Olympics, but by the time the Olympics were set to begin, were only able to produce less than 7,000.

Table 3. UN Contributors: Money or Troops (“Payers” and “Players”)⁴⁴¹

LEVEL	ROLE	PSC PROS	PSC CONS
A Permanent Five Security Council Members (P5)	“Payer”—65% of peacekeeping budget Along with category B, wealthier nations pay higher UN dues and more often pay higher peacekeeping cost percentages (in addition to higher regular and special UN assessments), but do not send many actual peacekeepers. E.g. U.S. contributes roughly 0.01 percent of troops currently engaged in peacekeeping. ⁴⁴²	Reduced political accountability Competition could breed efficiency & effectiveness Additional resource could ensure peacekeepers always available for contingencies	Higher salaries than traditional peacekeepers Could be perceived by “peacekept” as Western dominance of UN, negatively effecting legitimacy
B Developed countries not permanent members of the Security Council	“Payer”—35% of peacekeeping budget Along with category A, wealthier nations pay higher UN dues (in addition to higher regular and special UN assessments), but do not send many actual peacekeepers.	Reduced political accountability Competition could breed efficiency & effectiveness Additional resource could ensure peacekeepers always available for contingencies	Higher salaries than traditional peacekeepers Could be perceived by “peacekept” as Western dominance of UN, negatively effecting legitimacy
C Wealthy developing nations	“Payer”—1% of peacekeeping budget; .05% total troops With the exception of Singapore, these are wealthy oil-rich states who contribute very few troops and far less money than Level B states.	Could employ category C—J PSCs (local nationals and third country nationals)	Could be perceived by “peacekept” as Western encroachment into traditionally level C—J activity
D-J LDCs	“Player”—1% of peacekeeping budget; 90% of total troops Along with category C, these countries make up the majority of TCCs. Economies rely on UN peacekeeping income.	Could employ category C—J PSCs (local nationals and third country nationals)	Competition in the “market” for peacekeepers would remove money, prestige, & power from TCCs. Could be perceived by “peacekept” as Western encroachment into traditionally level C—J activity

⁴⁴¹ *Multiple sources.* United Nations, “Scale of Assessments for the Apportionment of the Expenses of the United Nations,” in *Sixty-fourth session* (New York: General Assembly, 5 February 2012); ———, “Contributors to UN Peacekeeping Operations”; Williams, “Broadening the Base of UN TCCs.”

⁴⁴² Hunter, “Should we Prosecute the Protectors?,” 27. Cited in Sarah W. Spencer, “Making Peace: Preventing and Responding to Sexual Exploitation by United Nations Peacekeepers,” *Journal of Public and International Affairs* 16(2005): 178.

b. Private Security Costs

Private security firms readily admit a profit motive; however, they often tout their cost effectiveness and cost efficiency as superior to the public sector.⁴⁴³ For example, the president of Sandline wrote,

*Sandline is not a charitable organization. What we do we do for money, and we expect to make a profit out of it. We would argue that PMCs, being profit-orientated, are necessarily cost-effective, unlike many UN operations. UN intervention in Angola cost \$1 million a day--\$365 million in one year—and achieved absolutely nothing. The South African PMC, Executive Outcomes, charged the Angola government \$80 million over two years and got UNITA to the conference table, putting an end to the war in a matter of months. Readers may judge which amount of money achieved the better results.*⁴⁴⁴

The U.S. Government Accountability Office conducted a study that found “What has not been so well examined is the comparative cost of using civilian employees or military members versus the cost of using contractors, particularly private security contractors...” and David Isenberg points out in his own analysis (which is also supported by ISOA’s director of operations), “the simple truth is that nobody knows for sure.”⁴⁴⁵ He adds, “There are no empirical data to confirm such assertions, and there has been enough evidence of cost overruns, inflated invoices, fraud, and abuse to be somewhat skeptical.”⁴⁴⁶ While not focused on PSCs, the Project On Government Oversight (POGO) took on the task of evaluating the data on public versus private cost and found that the government overpays for private services that it could do more cheaply

⁴⁴³ See for example, numerous statements by Eeben Barlow of EO, Tim Spicer, of Sandline, now (AEGIS), and Doug Brooks of ISOA. Barlow, *Executive Outcomes: against all odds*; Spicer, *An Unorthodox Soldier*; Brooks, “Write a Cheque End a War Using Private Military Companies to End African Conflicts.”

⁴⁴⁴ Spicer, *An Unorthodox Soldier*: 23.

⁴⁴⁵ Isenberg, *Shadow Force : Private Security Contractors In Iraq*: 161; Vogel, Jessica, email communication.

⁴⁴⁶ Isenberg, *Shadow Force : Private Security Contractors In Iraq*, 89.

itself.⁴⁴⁷ Specifically, POGO found that the federal government pays contractors 1.83 times more than it pays government employees for doing the same jobs. Additionally, POGO found that:

- Federal government employees were **less expensive** than contractors in **33 of the 35** occupational classifications POGO reviewed.
- In one instance, contractor billing rates were **nearly 5 times** more than the full compensation paid to federal employees performing comparable services.
- Private sector compensation was lower than contractor billing rates in **all 35** occupational classifications we reviewed.
- The federal government has failed to determine how much money it saves or wastes by outsourcing, insourcing, or retaining services, and has no system for doing so.⁴⁴⁸

POGO's data goes against a U.S. Congressional Budget Office (CBO) study that compared the costs of military, federal employees, and contractors for overseas logistics operations and found that using the U.S. Army would be approximately 90% more expensive than using contractors and that the cost of using State Department employees would also be far greater than using contractors for security.⁴⁴⁹ The U.S. Government Accountability Office conducted a study using similar data and came up with drastically different numbers. However, these cost estimates are imprecise measures of actual costs because data used is not accurate or based upon similar task evaluations. Finally, a recent report finds that when comparing government costs to contractor costs, there are many things left out which necessarily need to be taken into consideration. For example, it finds that,

When military or DoD civilian personnel perform a function, their actions are covered by sovereign immunity. However, when a contractor performs

⁴⁴⁷ Project on Government Oversight, "Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors," in *Contract Oversight* (Washington, DC: Project on Government Oversight, 2011).

⁴⁴⁸ Ibid.

⁴⁴⁹ William Solis, "Warfighter Support: A Cost Comparison of Using State Department Employees versus Contractors for Security Services in Iraq," (Washington, DC: U.S. Government Accountability Office (GAO), 4 March 2010); Douglas Holtz-Eakin, "Logistics Support for Deployed Military Forces," in *A CBO Study*, ed. Christine Bogusz and Loretta Lettner (Washington, DC: Congressional Budget Office (CBO), October 2005).

*a function, the contractor can be sued. To the extent the Government must indemnify or reimburse the contractor or its insurer, the Department of Defense incurs additional expenses and contingent liabilities that would not have to be paid if military or DoD civilian personnel performed the work. If the Department of Defense does not agree to pay these additional costs, the price of the contract would have to be increased to cover the contractor's liability. ...These costs are not common costs because they would not be incurred if Government personnel performed the work. If practical and if data are available, the DoD Components should incorporate these costs into their estimates.*⁴⁵⁰

There are obviously many factors that weigh into this calculus, for example, training costs, salary, benefits, overseas costs, recruitment, background screenings, logistics, and support. Although it seems that as data are uncovered an equal number of conclusions can be drawn on both sides of this equation, the evidence indicates that when contracts are clearly written and followed, costs are lower; when contracts are extended or not monitored closely, costs escalate and the benefits of privatization are rapidly diminished.⁴⁵¹ Because U.S. contractors were used so extensively in Iraq and Afghanistan, their use can provide a recent and comprehensive view into contractor costs versus the costs of using military or state employees. In fact, the U.S. GAO found performing the cost comparison analysis difficult because they could not acquire the requisite cost data from the U.S. Department of Defense (DoD). Instead, they compared Department of State (DoS) employees and associated costs for the same tasks performed by civilian contractors. Even in this case certain estimates were unable to be obtained or were not provided. For example, furnished equipment or the administrative costs incurred through awarding task orders, contracts, or oversight were unavailable or not provided for analysis.⁴⁵²

⁴⁵⁰ U.S. Secretary of Defense, "Directive-Type Memorandum (DTM) 09-007, 'Estimating and Comparing the Full Costs of Civilian and Military manpower and Contract Support'," (Washington, DC: Office of the Secretary of Defense, Pentagon, Change 4, 2 October 2012). *Cited in* Isenberg, "Getting Data for the Debate."

⁴⁵¹ Solis, "Warfighter Support," 3.

⁴⁵² *Ibid.*

Because one of the major uses of PSCs in UN peacekeeping to date has been in security of UN personnel, buildings, and equipment, U.S. PSC use in similar missions, e.g., embassy security, is relevant here and consistent with international private security use. One representative case analysis shows the estimated cost of using State Department personnel for Baghdad embassy security (static security) to be \$858 million versus \$78 million for contractors; whereas, the estimated cost of using DoS personnel to protect DoS employees while in the region was \$240 million, but \$380 million for contractors because of the cost of obtaining security clearances.⁴⁵³ (This does not take into account the estimated \$160 million that it would cost to recruit, train, and hire the necessary DoS security personnel for dynamic security.) In four out of five cases, private security was found to be cheaper than using government or military personnel. Translated to potential costs that may be incurred by the UN when hiring PSCs for security missions or posts, it can be seen that the U.S. experience may be representative of the path the UN is heading down.

Specific comparisons for five different private security contracts are provided in Table 4.

⁴⁵³ Ibid.

Table 4. DoS vs. PSC Cost Comparison

State Department versus Private Security Contractor Cost Comparison (\$ in millions) Contract / task orders	Number of contractor personnel	Contractor annual cost	State Department annual estimated costs (in fiscal year 2008 dollars)			Cost difference
			Deployed	Stateside	Total	
Baghdad Embassy Static Security	1,982	\$77.6	\$681.9	\$176.5	\$858.4	(\$785.1)
Baghdad Region Personal Protective Services Task Order	553	\$380.4	\$190.3	\$49.2	\$239.5	\$140.9
Basrah Region Personal Protective Services Task Order	243	\$61.6	\$83.6	\$21.6	\$105.2	(\$43.7)
Al-Hillah Region Personal Protective Services Task Order	259	\$71.9	\$89.1	\$23.1	\$112.2	(\$40.3)
Erbil Region Personal Protective Services Task Order	128	\$52.1	\$44.0	\$11.4	\$55.4	(\$3.3)

Source: GAO analysis of State Department data.

*The contractor annual costs have been converted into fiscal year 2008 dollars.

*The costs to recruit, hire, and train new employees are not included because the State Department would incur costs to acquire new employees before it would incur the additional estimated annual costs in this table.⁴⁵⁴

⁴⁵⁴ Ibid.

On the other side of the coin, POGO found contractors to cost substantially more than using federal or state employees. Although more extensive in its scope and coverage, POGO's data revealed a much different story than the GAO, even though much of the same data were used. POGO reviewed thirty-five different areas outsourced by the U.S. government using Circular A-76 and the FAIR Act to determine areas not "inherently governmental" and therefore subject to outsourcing.⁴⁵⁵ In compiling POGO's cost assessment, they used U.S. General Services Administration (GSA) listed contractor billing rates, federal databases, and government websites for their review. POGO faced similar limitations as GAO in acquiring data for their analysis, including sorting out differing methodologies among government agencies for tracking cost figures, numbers of employees, salaries, occupational positions, or detailed breakdowns of contracted versus U.S. government-paid amounts. In many cases, POGO found that the U.S. government paid listed billing rates rather than negotiating lower rates even though this was within the government's power to do so.⁴⁵⁶

Although POGO analyzed thirty-five different Office of Personnel Management (OPM) occupations, the ones we are concerned with here are those relating to security. In the case of security guards, the government paid contractors an annual salary of \$68,000, but federal compensation was \$50,257--\$18,000 more than keeping this task in-house.⁴⁵⁷ The case of police and corrections officers is not much different. Police contractors were paid \$95,000, 1.34 times more than the full federal annual compensation for the same job, which is only \$71,256; and corrections officers billed the government \$83,803, 1.15 times the full federal compensation for the same job, which was \$72,977.⁴⁵⁸ Interestingly, private sector comparisons were, on average, less than both the contractor's billed the government and the federal rate by half. For example, the

⁴⁵⁵ Oversight, "Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors," 10–12.

⁴⁵⁶ Ibid.

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid., 15–19.

annual salary of an average private sector corrections officer is only \$33,598, while a security guard in the private sector receives a mere \$32,953.⁴⁵⁹

In the case of security work such as diplomatic envoy and personnel protection specific to PSCs, POGO used the Congressional Budget Office (CBO) report on contractors' support of U.S. operations in Iraq which compared military units performing similar functions.⁴⁶⁰ What the CBO found was that approximately one-eighth of the \$85 billion in contracts awarded between 2003 and 2007 were for private security, an amount somewhere in the range of \$6–8 billion.⁴⁶¹ While the CBO found that “the costs of a private security contract are comparable with those of a U.S. military unit performing similar functions,” POGO found that the CBO had included the cost of non-deployed (stateside) military personnel in a “rotational” status; what this means is that the cost comparisons were not based upon fair and equal information. To correct the disparity, either the costs of maintaining a “ready” force of contractors would have to be included or the costs of maintaining non-deployed military personnel would have to be excluded. POGO chose to exclude the cost of non-deployed military personnel and found that in one specific case, for example, Blackwater Worldwide charged the government \$98.5 million, while the cost of a comparable U.S. military unit “performing similar functions” was \$55.4 million.⁴⁶² This is a substantial difference showing that the government paid 1.78 times more to outsource than had U.S. military personnel been used—a much different figure than the relative parity given in the 2008 CBO report and a far cry from the figures given in the 2005 CBO report stating that military personnel were 90% more costly.⁴⁶³

“Inherently governmental functions,” a term used by the U.S. to describe certain functions that can only be filled by government personnel, are similar to those

⁴⁵⁹ Ibid., 15.

⁴⁶⁰ Peter Orszag, “Contractors’ Support of U.S. Operations in Iraq,” ed. Sherry Snyder (Washington, DC: Congressional Budget Office (CBO), August 2008).

⁴⁶¹ Ibid., 2.

⁴⁶² Oversight, “Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors,” 21–22.

⁴⁶³ Ibid., 22; Orszag, “Contractors’ Support in Iraq,” 2; Holtz-Eakin, “CBO Logistics Support.”

positions or responsibilities which could also translate to functions that could be considered “inherently international.” Since peacekeeping rather than peace enforcement is defensive in nature, similar to the U.S. view of services which are allowed to be contracted because they are not inherently governmental, should the UN consider the use of PSCs for other than peace enforcement missions? Under the “inherently governmental” restrictions, if peace enforcement falls under tasks proscribed for PSCs because of the potentially offensive nature of enforcement, then there is no reason they should not be considered for all but Chapter VII peacekeeping. However, considerations for their use would necessarily have to take into consideration much more than cost or the criteria used by the U.S. government to determine activities eligible for privatization. For example, how would PSC peacekeeping personnel be integrated into the ranks of state-provided peacekeepers? What duties, if any, would PSC peacekeepers be prevented from performing? How would PSC peacekeepers be held accountable for any violations they might commit?

Similarly to the UN, peacekeeping is viewed by the U.S. as an “inherently governmental function” and within the purview of traditional military operations. As a consequence, PSCs have not been considered by either entity for peacekeeping proper—logistics and support, yes, but peacekeeping, no. Moreover, as difficult as it is for a state to allow another nation’s military to conduct peacekeeping within sovereign boundaries, a state cedes much more if it allows corporations the authority to keep or enforce the peace on their own sovereign territory and not under their direct control. It is understandable that many nations do not want to essentially allow corporations to tell their citizenry what to do and what not to do.

Although cost is a factor, it is clearly not the only factor in making decisions regarding security and in any recommendations on whether or not the UN should allow PSCs to conduct peacekeeping. As has been discussed previously, effectiveness, control, and efficiency also have to be considered.⁴⁶⁴ Weighing the merits

⁴⁶⁴ For an excellent discussion of the three requirements for outsourcing and inherently governmental functions, see Thomas C. Bruneau, “Contracting Out Security,” *The Journal of Strategic Studies* 1, no. 27 (2012). Also ———, *Patriots for profit : contractors and the military in U.S. national security*.

of privatization or outsourcing over governmental or UN control of security forces cannot be done simply quantitatively. However, cost remains a major factor and must be considered when weighing the pros and cons of PSCs in international peacekeeping.

2. Documented Abuses, Fraud, and Criminal Activity

a. Private Security Companies

The most comprehensive and detailed database on contractor fraud, waste, abuse, and criminal activity to date is the one compiled by the Project On Government Oversight (POGO).⁴⁶⁵ POGO's database contains 1221 instances of contractor misconduct and abuse; however, of that number, PSCs are only responsible for 31 of those instances, or less than 1% of those contractors.⁴⁶⁶ However, human rights abuses make up 24 of the 31 cases of misconduct by PSCs, or 77 percent.⁴⁶⁷ Of the total contractor abuses, fraud, and criminal activity, "waste" is the number one problem identified, not human rights abuses. These are significant figures, but I do not think that anyone would find them surprising.

To this point, "waste" is not a problem that the UN has necessarily has to deal with in any great proportion with respect to contracting. Of the abuses noted on the UN's database of peacekeeper misconduct, human rights abuses and sexual assault make up almost half of the abuses committed by UN peacekeepers.⁴⁶⁸ That being said, knowledge of PSC abuses, fraud, and criminal activity is also useful as a factor in determining their fitness for peacekeeping since disruptive misconduct is not only sexual, classified as a human rights violation, or exploitative in nature.

Some of the most notorious crimes committed by PSC personnel have been widely publicized and have only further damaged the reputations of PSCs and

⁴⁶⁵ Project On Government Oversight (POGO), "Federal Contractor Misconduct Database," POGO.org, <http://www.contractormisconduct.org/>.

⁴⁶⁶ Ibid.

⁴⁶⁷ Ibid.

⁴⁶⁸ United Nations Conduct and Discipline Unit, "Allegations of Misconduct Statistics," United Nations, <http://cdu.unlb.org/Statistics/OverviewofStatistics.aspx>.

deepened the perception of them as mercenaries, reckless, violent, and above the law. This perception of PSCs has proven, at least in the American case in Iraq, Afghanistan, and the Balkans, to be partially true. There are quite a few cases of abuse that have gone unpunished, at least, in proportion to the severity of the crimes committed. However, what is infrequently noted in the press is that the American experience with PSCs and contractors in general has been one of a steep learning curve. It has only been since 2001 that the U.S. has begun to use contractors to the extent that they are used today.

A commonly used quick comparison of contractor use shows the number of contractors used in various wars and conflicts over time reflects the “rise of the privatized military industry.”⁴⁶⁹ (See Table 5.) This table gives shows the presence of contractor personnel during U.S. military operations, but is easily translatable to many of the tasks performed in peacekeeping and peace enforcement missions. To argue that the recent U.S. missions in Afghanistan and Iraq, though considered military operations, are not in many ways the same as peacekeeping missions is to have ignored the transformation in peacekeeping toward security, protection, and enforcement, including offensive combat. The recent data in this table only includes Iraq and not Afghanistan; however, the Afghanistan data are similar in that, for example, in the ten years since the war in Afghanistan began, U.S. DoD contractor spending has grown almost three-fold, from \$133.4 billion in 2000 to \$367.8 billion in 2010.⁴⁷⁰ U.S. DoS contractor spending went from \$1.3 billion on contracts and \$102.5 million on grants in 2000 to \$8.1 billion in contracts and \$1.4 billion in grants in 2010.

⁴⁶⁹ A reference to Peter Singer’s book on the subject, *Corporate Warriors*. Singer, *Corporate Warriors*.

⁴⁷⁰ Allison Stanger, “Book Discussion “Outsourcing War and Peace”: the Clash of market and Civic Values and Its Implications” (paper presented at the Symposium on Laura Dickinson’s book *Outsourcing War and Peace: Preserving Public Values in a World of Privatized Foreign Affairs*, Washington, DC, 2012).

Table 5. Presence of Contractor Personnel during U.S. Military Operations

Presence of Contractor Personnel During U.S. Military Operations			
Conflict	Estimated Personnel (Thousands)		Estimated Ratio of Contractor to Military Personnel
	Contractor ^a	Military	
Revolutionary War	2	9	1 to 6
War of 1812	n.a.	38	n.a.
Mexican-American War	6	33	1 to 6
Civil War	200	1000	1 to 5
Spanish-American War	n.a.	35	n.a.
World War I	85	2000	1 to 24
World War II	734	5400	1 to 7
Korea	156	393	1 to 2.5
Vietnam	70	359	1 to 5
Gulf War	9 ^b	500	1 to 55
Balkans	20	20	1 to 1
Iraq Theater as of Early 2008 ^c	190	200	1 to 1

Source: Congressional Budget Office based on data from William W. Epley, "Civilian Support of Field Armies," *Army Logistician*, vol. 22 (November/December 1990), pp. 30–35; Steven J. Zamparelli, "Contractors on the Battlefield: What Have We Signed Up For?" *Air Force Journal of Logistics*, vol. 23, no. 3 (Fall 1999), pp. 10–19; Department of Defense, Report on DoD Program for Planning, Managing, and Accounting for Contractor Services and Contractor Personnel During Contingency Operations (October 2007), p. 12.

Note: n.a. = not available.

a. For some conflicts, the estimated number of contractor personnel includes civilians employed by the U.S. government. However, because most civilians present during military operations are contractor personnel, the inclusion of government civilians should not significantly affect the calculated ratio of contractor personnel to military personnel.

b. The government of Saudi Arabia provided significant amounts of products and services during Operations Desert Shield and Desert Storm.

Personnel associated with those provisions are not included in the data or the ratio.

c. For this study, the Congressional Budget Office considers the following countries to be part of the Iraq theater: Iraq, Bahrain, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, Turkey, and the United Arab Emirates.⁴⁷¹

⁴⁷¹ Orszag, "Contractors' Support in Iraq." *CBO Source*: William W. Epley, "Civilian Support of Field Armies," *Army Logistician* 22, no. November/December (1990): 30–35; Zamparelli, "Contractors on the Battlefield," 10–19; Department of Defense, "Department of Defense Program for Planning, Managing, and Accounting for Contractor Services and Contractor Personnel During Contingency Operations," (Washington, DC: DoD, April 2008), 12.

Could this massive growth of outsourcing occur in the same manner if the UN began contracting out peacekeeping functions? One of the fundamental arguments in Laura Dickinson's book, *Outsourcing War*, is that there is no reeling back the extent to which contractors are used today. She does, however, propose four mechanisms of accountability and constraint. The four mechanisms are:

- (1) using litigation (both criminal and civil) to hold contractors responsible for malfeasance;
- (2) reforming the language of the government contracts themselves to mandate compliance with public values and providing for better contract monitoring to ensure this new contractual language is effective;
- (3) creating better transparency mechanisms regarding outsourcing decisions;
- (4) creating a web of formal and informal constraints by tweaking the organizational structure and institutional culture of the contract firms themselves.⁴⁷²

Her argument is that, had these elements of control been in place for contractor use following the U.S.-led invasions of Iraq and Afghanistan, the incidences of fraud, waste, and abuse would not have occurred to the extent they had. She adds, however, that the sufficient controls are still not in place to the degree necessary to ensure effective accountability. As evidence she cites the example of Abu Ghraib. Out of that scandal, twelve active duty military personnel were convicted for violations of the Uniform Code of Military Justice (UCMJ).⁴⁷³ There were no prosecutions of any of the contractors acting as translators and interrogators implicated in the torture and abuse of prisoners. If the UN continues to contract more and more of its functions out to private agents, they would be wise to heed the proposed four mechanisms of accountability and constraint.

⁴⁷² Dickinson, "Book Discussion "Outsourcing War and Peace": The Rise of Private Military Contractors and the Importance of Public Values."

⁴⁷³ Ibid.

Douglas Wissing makes the case that one of the fundamental problems facing the U.S. at the outset of Iraq and Afghanistan is that just prior to 2001, as part of cost-cutting measures, the U.S. cut a major part of those who could actually monitor the contractors, that is, the Contracting Officer Representatives (CORs).⁴⁷⁴ This is further backed up by Dickinson's contention in her book that not only were public controls reduced, but oversight itself was outsourced. She writes, "One of the core points of this book is that these public values ought to govern even when those acting are not governmental employees or representatives."⁴⁷⁵ As Allison Stanger points out,

"One might legitimately ask, is this a realistic aspiration when government's default option is to privatize whenever possible, often outsourcing oversight as well as implementation? It is surely more challenging to uphold public values when government's actions themselves undermine the public's faith in the very legitimacy of public sector activity. Moreover, do we really want to treat public servants and private employees as functional equivalents, or do we instead lose something very dear in blurring that line? Who is to ensure that the public interest is upheld under such arrangements?"⁴⁷⁶

So what does this mean for the UN? In the end, it means that if the UN is to continue to privatize services (as it is doing), then the UN must carefully vet its actors, whether they be ultimately engaged in peacekeeping or simply providing logistics and security services. The role of the COR in U.S. operations in Iraq and Afghanistan is one that will need to be assumed by a UN agency with a sufficient number of monitors (the equivalent of CORs) capable of analyzing and preparing contracts for private corporations to sign (not the other way around). Self-interested corporations have proven only too happy to prepare contracts for the U.S. government to sign; what makes anyone think that contracting with the UN would be any different? Dickinson is clear that what is needed in order to hold contractors accountable is "a broad-based, multifaceted perspective, one that does not seek to gloss over the significant threats posed by

⁴⁷⁴ Douglas Wissing, *Funding the Enemy: How U.S. Taxpayers Bankroll the Taliban* (Amherst: Prometheus Books, 2012).

⁴⁷⁵ Dickinson, *Outsourcing war and peace : preserving public values in a world of privatized foreign affairs*: 10.

⁴⁷⁶ Ibid. From Allison Stanger's book discussion on "Outsourcing War and Peace."

privatization, but one that seeks creative responses rather than simply giving up.” Privatization of public services is not going away any time soon, preserving public values is essential for proper monitoring and accountability of PSCs, whether they be working for a state, a regional organization, or the UN.

b. Peacekeepers

I am afraid there is clear evidence that acts of gross misconduct have taken place. This is a shameful thing for the United Nations to have to say, and I am absolutely outraged by it.

– Kofi Annan, United Nations Secretary-General⁴⁷⁷

Human rights abuses, specifically sexual exploitation and abuse (SEA) make up almost half of the most serious misconduct allegations against peacekeepers.⁴⁷⁸ Actual numbers from the UN’s database over the past five years (2007–2012) place misconduct allegations involving SEA at 503, where serious misconduct other than sexual abuse and exploitation numbers 1068. These serious abuses are classified as Category 1 by the UN’s Conduct and Discipline Unit. Category 1 misconduct includes all sexual exploitation and abuse offenses, “including rape, transactional sex, exploitative relationships and sexual abuse, cases involving risk of loss of life to staff or to others, abuse of authority or staff, conflict of interest, gross mismanagement, bribery/corruption, illegal mineral trade, trafficking with prohibited goods, life threat/murder, abuse or torture of detainees, arms trade, physical assault, forgery, embezzlement, major theft/fraud, use, possession or distribution of illegal narcotics, waste of substantial resources, entitlement fraud and procurement violations.”⁴⁷⁹ However, what the UN calls Category 2 misconduct is also harmful to the legitimacy and effectiveness to any

⁴⁷⁷ Kofi Annan, “United Nations Press Release: Sexual Abuse In Peacekeeping Report, ‘Hard and Unvarnished Look’ at Serious Problems, Reforms Must Be Quickly Implemented, says Secretary-General (SG/SM/9778),” (New York: United Nations, 24 March 2005).

⁴⁷⁸ United Nations Conduct and Discipline Unit, “Statistics of Allegations of Misconduct (Sexual Exploitation and Abuse),” United Nations, <http://cdu.unlb.org/Statistics/AllegationsbyCategoryofPersonnelSexualExploitationandAbuse/AllegationsforAllCategoriesofPersonnelPerYearSexualExploitationandAbuse.aspx>.

⁴⁷⁹ United Nations Conduct and Discipline Unit, “UN Enforcement.”

peacekeeping mission. Category 2 misconduct includes “discrimination, harassment, sexual harassment, abuse of authority, abusive behavior, basic misuse of equipment or staff, simple theft/fraud, infractions of regulations, rules or administrative issuances, traffic-related violations, conduct that could bring the UN into disrepute, breaking curfew, contract disputes and basic mismanagement.”⁴⁸⁰ Category 2 is the “catch-all” for misconduct that does not fit into Category 1.⁴⁸¹

The UN has focused intensely on peacekeeper abuses, especially those involving SEA. The UN’s efforts seem to have yielded positive results. Over the five-year period from 2007 to 2012, allegations of SEA (Cat. 1) have dropped from 127 in 2007 to 22 in 2012—and statistics show a steady decline.⁴⁸² If five-years of data is sufficient to show that UN training and enforcement efforts are working, then the UN is certainly making progress. In response to allegations of SEA the UN incorporated what it calls its “three-pronged strategy” to combat abuse. The three prongs of the UN’s strategy are prevention, enforcement of UN standards of conduct, and remedial action.⁴⁸³ Part of the prevention prong involves training on human security, human rights, and specifically, SEA, even though training on SEA was not included in the Core Pre-deployment Training Module, required for all prospective peacekeepers until 2005. SEA training is now mandatory for all peacekeepers upon arrival in a peacekeeping mission.

Although results have been positive, there remain numerous cases of abuse which not only are harmful to those who are supposed to be protected, but these cases of misconduct bring great discredit to the UN. Acts of SEA by UN peacekeepers raise questions of legitimacy which ultimately harms the UN’s effectiveness. If the UN itself cannot provide human security, if they themselves are perpetrators of violence against the “peacekept,” mission success can be compromised.

⁴⁸⁰ Ibid.

⁴⁸¹ For a complete list of UN categories and associated crimes or misconduct, see Table 1 in Ch. III.

⁴⁸² United Nations Conduct and Discipline Unit, “Allegations of Sexual Exploitation and Abuse.”

⁴⁸³ United Nations Conduct and Discipline Unit, “UN Enforcement,” UN website, www.un.org.

B. CONTRASTS AND COMPARISONS

Multilevel legal control and regulation of PSCs is an extremely complex and opaque area in which the international community, states, corporations, military, and civilians (and victims) must find common ground in order for accountability to exist. “Aspirational standards,” such as so-called self-regulation, are only as good as the those who enforce those standards.⁴⁸⁴ International norms such as the Montreux Document and the ICoC only become accepted and adopted after they have been effectively used. Thus, adoption of the principles, best practices, and lessons learned must continue to be inculcated at every level when contracting out security; otherwise, human rights abuses continue, waste, fraud, and abuse continues, and little more is done toward achieving UN goals. Leadership and political will are key to enforcing legislative instruments and regulations; just as they are key to enforcement of standards at the practitioner or peacekeeper level.

Cost is clearly not the only factor in determining whether or not to privatize peacekeeping. In fact, many would argue that cost is a relatively minor factor when the stakes are as high as preventing genocide, ethnic cleansing, war crimes, or crimes against humanity.⁴⁸⁵ However, the question of cost generally comes immediately after the decision to privatize or outsource is made. Therefore, determining which services are eligible for privatization is critical. The U.S. debate over those functions which are determined to be “inherently governmental” to decide what can and cannot be privatized is a useful tool that the UN could modify to apply to decision-making regarding peacekeeping. Despite the U.S. taking years toward attempts at finding a clear definition for the term “inherently governmental,” analysis has raised a number of

⁴⁸⁴ Schmitz, Joseph, telephone interview, 7 June 2012.

⁴⁸⁵ These are the crimes that fall under R2P, United Nations Secretary-General, “Implementing the Responsibility to Protect,” in *Sixty-third session, Agenda Items 44 and 107*, ed. United Nations General Assembly (New York, NY: United Nations, 2009).

issues which beg exploration if the UN is to adopt a similar strategy for determining the extent to which they decide to use PSCs.⁴⁸⁶

For the U.S., the definition of “inherently governmental functions,” (IGFs) can be found in at least four different guiding documents: First and most widely accepted is the Federal Activities Inventory Reform (FAIR) Act, which defines “inherently governmental” to mean, “a function that is so intimately related to the public interest as to require performance by Federal Government employees.”⁴⁸⁷ The FAIR Act will be used here for comparison to a possible use of the concept by the UN because it is the definition promoted by the Obama administration as the final policy meant to address the need for a “single consistent definition” of IGFs that would improve consistency among government contracting agencies.⁴⁸⁸ Under this definition, IGFs include the leadership of military personnel who are members of any combat role (including combat support), the conduct of foreign relations, and the direction and control of intelligence and counter-intelligence operations.⁴⁸⁹

The Obama administration’s adoption of the FAIR Act definition included additional examples to the list provided in the FARS further winnowing PSCs from

⁴⁸⁶ The U.S. still struggles with a clear definition of what is and what is not “inherently governmental.” Even after the Obama administration attempted to further clarify what inherently governmental functions are in 2009, questions still remain concerning specific applicability given the broad scope of the current definition. Resultantly, “it is unsurprising that United States policy has itself recognized that [PSCs] often blur the line in engaging in inherently governmental activity.” Groth, “Transforming Accountability,” 74. For a discussion on problems and recommendations, see letter to OFPP of OMB, by contracting industry representatives, Office of Management and Budget: Office of Federal Procurement Policy (OFPP), “Performance of Inherently Governmental and Critical Functions,” (Washington, DC: U.S. Government Office of Management and Budget, 12 September 2011). In Bruneau, *Patriots for profit : contractors and the military in U.S. national security*: Appendix 2, 172–78.

⁴⁸⁷ “FAIR Act,” ed. U.S. Government (19 Oct 1998). P.L. 105–270 § 5(2) 112 Stat. 2382 (codified at 31 U.S.C. § 501 note, at § 5(2)(A)) See also FARS, “Title 48 C.F.R. Federal Acquisition Regulations System (FARS) § 7.503(a) & 7.503(c)(3–8),” ed. U.S. Government (Washington, DC); Office of Management and Budget (OMB), “Circular No. A-76 (Revised),” (Washington, DC: Government Printing Office, 1999).

⁴⁸⁸ Barack Obama, “Memorandum for the Heads of Executive Departments and Agencies: Government Contracting,” (Washington, DC: The White House: Office of the Press Secretary, 4 March 2009). For a reprint of the White House letter, see Bruneau, *Patriots for profit : contractors and the military in U.S. national security*: 167–70, Appendix 1.

⁴⁸⁹ FARS, “Title 48 C.F.R. Federal Acquisition Regulations System (FARS) § 7.503(a) & 7.503(c)(3–8).” Cited in Groth, “Transforming Accountability,” 73.

certain functions: 1) Combat; 2) security operations in direct support of combat; or 3) when there is a significant potential for combat.⁴⁹⁰ Each of these is an area in which PSCs could ostensibly be used by the UN in peacekeeping, especially in Chapter VII missions which have become the norm in UN peacekeeping since the 1990s. This is why a review of the pros and cons directly affects whether or not certain functions should fall into the realm of possibilities for privatization; and once considered for privatization, the costs and benefits will necessarily need to be constantly reviewed. Despite the fact that the U.S. definition still remains vague, even after Presidential attempts at clarification, the UN does not even have a similar definition or policy in place.⁴⁹¹ Considering the legal morass, political complications, cost, and alleged human rights violations that the U.S. encountered with PSC use in Afghanistan and Iraq, it seems only reasonable that the UN would want to address and identify critical peacekeeping functions well before using PSCs for any task associated with peacekeeping or UN projects.

Of course the UN would not call them inherently “governmental” functions. A concept similar to the U.S. government’s concept of IGFs could work toward development of a policy that would isolate critical tasks that could only be performed by UN representatives or state-sponsored peacekeepers. For purposes of this discussion, these functions could be called “inherently international functions” (IIFs); and anything permissible to be outsourced could be considered “allowable private functions” (APFs). For starters, lists of critical peacekeeping tasks could be broken down by IIFs and APFs, and then a unitary policy document could define the policy with regard to the filling of these functions or positions.

The UN already has a vast pool of data from which to pull mission essential tasks. As an example, the African Crisis Response Initiative (ACRI) used a chart developed as part of a Swedish study to identify important peacekeeping tasks. Table 6 shows these categories:

⁴⁹⁰ (OFPP), “Performance of Inherently Governmental and Critical Functions.”

⁴⁹¹ For an explanation of further problems of IGF definition even following President Obama’s letter on government contracting, see Bruneau, *Patriots for profit : contractors and the military in U.S. national security*: 171–78 Appendix 2 (Letter to OFPP of OMB, by Contracting Industry Representatives).

Table 6. Peacekeeping Tasks⁴⁹²

<p><u>Category A:</u></p> <ul style="list-style-type: none"> –Dampen disturbances through a presence –Conduct “on-the-spot” diplomacy/mediation
<p><u>Category B:</u></p> <ul style="list-style-type: none"> –Carry out measures to repel attackers –Carry out measures to separate fighting parties –Establish and man buffer zones between parties’ troops –Monitor a cease-fire zone –Monitor regrouping and demobilizing forces –Clear away ammunition and mines –Collect weapons –Guard arms depots –Monitor and assist in disarming military companies and paramilitary groups
<p><u>Category C:</u></p> <ul style="list-style-type: none"> –Control riots and disturbances –Intervene against armed “gangs” –Maintain civil law and order –Discover and prevent crimes –Maintain order and security during election preparations –Monitor and assist in disarming civilians –Escort civilians in violence prone areas –Protect refugees in refugee camps from armed elements
<p><u>Category D:</u></p> <ul style="list-style-type: none"> –Monitor the local police system –Participate in education of the local police force –Give advice and support in the establishment and restructuring of a new local police system
<p><u>Category E:</u></p> <ul style="list-style-type: none"> –Assist in taking care of refugees and homeless people –Integrate disarmed forces into civilian life –Promote repatriation and reintegration of refugees and displaced persons –Provide humanitarian help in connection with reconstruction –Give support in rebuilding of a judicial system and other administrative functions –Monitor human rights –Coordinate support for economic recovery and rebuilding –Monitor elections

⁴⁹² Adapted from Nils Gunnar Billinger, “Report of the Special Swedish Commission on International Police Activities,” in *Policing the New World Disorder: Peace Operations and Public Security*, ed. Michael Dziedzic Robert Oakley, and Eliot Goldberg (Washington, DC: National Defense University Press, 1998). Cited in Karen U. Kwiatkowski, *African Crisis Response Initiative (ACRI): Past, Present and Future?* (Carlisle: Peacekeeping Institute, Center for Strategic Leadership, U.S. Army War College, 2000), 46–47.

It is impossible to evaluate pros and cons without determining exactly what tasks PSCs currently perform and how those tasks translate to tasks required of enforcement or peacekeeping operations. Moreover, knowing what tasks fall into the capability spectrum of PSCs is essential if the pros and cons for their use are to be properly understood. What the Swedish study found was that only military units can carry out tasks in Category B, and some of those tasks would require Chapter VII Security Council authorization. When ACRI combined Category B with what they considered “battalion critical tasks” they found that the category made up “about eighty percent” of the peacekeeping tasks which required military units.⁴⁹³ These would be the IIFs. Incidentally, a careful review of the elements in category B of the study reveals that there are already a number of tasks which PSCs are already performing, for example, mine removal and aspects of DDR. The other four categories contain tasks that PSCs or other contractors already are performing for the UN or could ostensibly perform in the future. These would be the APFs.

In a letter from contracting industry representatives, a decision chart was recommended for use in determining which functions were to be accomplished by government employees or supervised by government employees. This same chart has been adapted below (Figure 4) as one method the UN might use toward determining which jobs must be performed by peacekeepers or UN personnel or jobs which could be let out to the private sector.

⁴⁹³ Kwiatkowski, *ACRI: Past, Present, or Future?* 46–47.

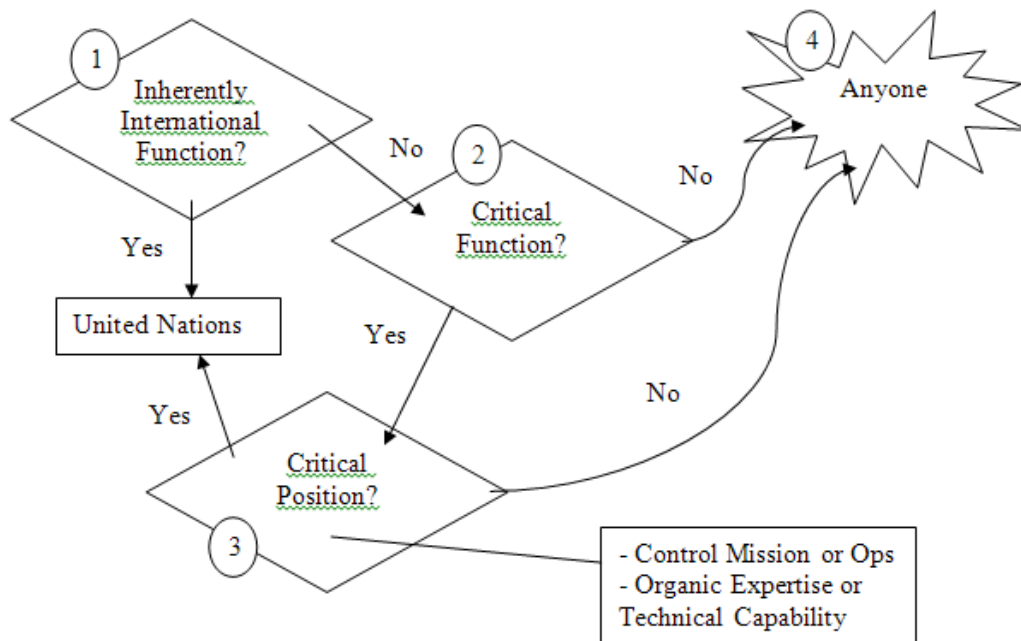


Figure 4. Decision Tree Regarding Performance of Functions of UN Personnel, Peacekeepers, or Others⁴⁹⁴

Stepping through this decision tree:

- 1) Inherently international functions must be performed by UN personnel or peacekeepers
- 2) If a function is not critical, that function can be performed by either UN personnel or the private sector
- 3) If a function is critical, the agency must ensure that UN personnel fill critical positions to oversee that function. “Criticality” is determined by the function or position’s impact on agency missions or operations. A position may also be treated as critical if it is needed to provide the agency with organic expertise and technical capability.

Note: No positions are reserved or presumed to be filled by contractor employees.⁴⁹⁵

⁴⁹⁴ Figure adapted from (OFPP), “Performance of Inherently Governmental and Critical Functions.” As reproduced in Bruneau, *Patriots For Profit : Contractors And The Military In U.S. National Security*: Appendix 2, 173.

⁴⁹⁵ Adapted from (OFPP), “Performance of Inherently Governmental and Critical Functions.”

Just establishing these IIFs and APFs certainly does not mean that the UN must use PSCs for certain non-critical aspects of peacekeeping, but what this would do is create clear guidelines for when their use is acceptable or allowed and when it is not. As it stands now, there is a real risk of PSCs being mistaken as peacekeepers, especially when their use in protecting UN buildings, offices, and personnel has increased as drastically as it has over the past few years. A number of lines in the Federal Acquisition Regulation System (FARS) recognize that this could be a problem and address these functions that approach being inherently governmental, for example: “Services that involve or relate to analysis, feasibility studies, and strategy options to be used by agency personnel in developing policy”; “[c]ontractors providing information regarding agency policies or regulations,...or conducting agency training courses”; “[c]ontractors participating in any situation where it might be assumed that they are agency employees or representatives.”⁴⁹⁶ This could become a serious problem for UN legitimacy especially if PSCs act in a way that could be potentially embarrassing for the UN, for example SEA crimes. The reason this is so important is because the UN currently does not have a unitary policy with regard to the hiring of PSCs. Hiring often goes through the UN Procurement Division, but is listed generally as “security services”; moreover, Experts on Mission also have a certain amount of latitude when hiring security. A single SOP does not exist for hiring security services, e.g., who to hire, when, who has been vetted, training, certifications and licenses, conditions that must be met, etc. This ad hoc hiring has been the subject of criticism by U.S. agencies Special Inspector General for Iraq Reconstruction (SIGIR), Special Inspector General for Afghanistan Reconstruction (SIGAR), and the Commission on Wartime Contracting, as well as other non-governmental watchdog groups, such as the Project on Government Oversight (POGO).

⁴⁹⁶ 48 C.F.R. § (d)(13)

C. UN CHARTER CHAPTERS VI & VII AND PRIVATE SECURITY COMPANIES

We need action not only to end the fighting but to make the peace.

*Lester B. Pearson*⁴⁹⁷

In the field of peacekeeping, combat-related actions would generally fall under Chapter VII peace enforcement activities. Purely defensive actions, for the most part, fall under Chapter VI. If peace achieved under Chapter VI were threatened, the offensive pursuit of aggressors or spoilers would require an approved shift to Chapter VII and troops to enforce the modified mission. It is the transition to Chapter VII where many states draw the line because of the risk to their national troops. On the pro-PSC side, the use of PSCs would avoid the political accountability for sending national troops into harm's way, since those aspects of peace enforcement could be contracted out. On the anti-PSC side, the contracting out of peace enforcement shows that approving states are not willing to risk their own troops for a mission, which begs the question of commitment and political will.

Since other peacekeeping types are defensive in nature, the UN might consider the use of PSCs for other than peace enforcement missions. However, considerations for the use of PSCs would necessarily have to take into consideration much more than cost or criteria similar to the “inherently governmental” used by the U.S. government to determine peacekeeping activities eligible for privatization. Peace operations are by design different from combat operations. In one aspect, a difference can be found in the motivations for action. Military force may be used at the discretion of a state in order to carry out political will or achieve some objective which may or may not include peace. In the case of UN forces acting under the Charter, peace is the primary goal. Consequently, the factors used to make “inherently international” determinations will need to be carefully reviewed if they are to be used in making decisions to use PSCs for any aspect of peacekeeping operations, not just peace enforcement.

⁴⁹⁷ Spoken by Lester B. Pearson in 1956, these same words are also on the side of the Peacekeeping monument in Ottawa, Canada.

The use of PSCs for non-peace enforcement missions goes directly contrary to what private military companies (PMCs) such as Sandline International and Executive Outcomes determined to be their strongest suit. It is largely possible that it may be that many of their activities fell outside of the boundaries of what would have been acceptable behavior for UN troops. Aggressive pursuit and violent prosecution of enemy soldiers has never been a UN mission. In fact, even though the UN now conducts “robust” peacekeeping, it does not normally conduct actual peace enforcement—this is generally left to regional organizations, multinational forces, and member states or state troops, often called “coalitions of the willing.”⁴⁹⁸ Until recently, peace enforcement has not been a mission for traditional UN peacekeepers. It has been a mission for military personnel trained in combat operations.

Both EO and Sandline acted in capacities which fall squarely into the category of what might be considered “inherently international,” that is, within the realm of traditional military operations—essentially they carried out military missions that nations’ military troops could not or would not perform. However, even if these PMCs were effective for the governments that hired them, this does not automatically mean that those features that made them effective would or could work for different forms of UN peacekeeping. Accountability—legal, national, political, and even personal accountability—play key roles in whether or not PMC effectiveness is translatable to the UN.

D. COST

Although cost is a factor, and PMCs acting in Angola and Sierra Leone claim to have been cost-efficient, it is clearly not the only factor in making decisions regarding security. As has been discussed previously, effectiveness, control, and efficiency are also

⁴⁹⁸ Although the “Security Council may take enforcement action without the consent of the main parties to the conflict, if it believes that the conflict presents a threat to international peace and security,” “since the mid-1990s, enforcement action has been carried out by ad hoc coalitions of Member States or regional-organizations acting under United Nations Security Council authorization.” See “Secretariat, “Peacekeeping Operations: Capstone Doctrine,” 43, f/n 20. One exception is Haiti, where the mandate (SCR 1542) authorized a Chapter VII mission and an increase in UN troops under UN force commanders to provide a secure and stable environment, support the political process, and protect human rights.

considered.⁴⁹⁹ Weighing the merits of privatization or outsourcing over governmental or UN control of security forces cannot be done simply quantitatively. Numerical weights cannot be assigned to each determinant and decisions made purely based on previous capacities; numerous peacekeeping analyses on success and failure bear this fact out—each mission is different and must be carefully observed and reviewed on its unique qualities.

While cost is a major consideration in decisions to privatize, questions of waste, fraud, and abuse also need to be weighed for decisions regarding the proper actors for the task. In the case of private security companies, there are myriad documented and anecdotal illustrations of PSCs acting badly, including waste, fraud, human rights abuses, and other criminal activity. However, there are also just as many, if not more, cases of peacekeepers acting badly. Control and accountability of the personnel conducting peacekeeping is an essential part of the UN's responsibility for protecting the "peacekept." Although criticisms of PSCs include the fact that, in many cases of misconduct, the perpetrators were sent back to their country by the company that hired them and action was never taken against them, there is no international assurance that UN peacekeepers will be held accountable by their parent state either.

In evaluating the pros and cons of cost and criminal conduct, there is no clear line that shows that privatization is more or less expensive and there is also no clear division between private and public actors and who, between the two of them, commit more human rights abuses. If peacekeeping is ever to be privatized, it will be up to the UN to ensure all the proper controls and accountability are in place beforehand and that all peacekeepers are monitored for proper behavior under pre-established standards of conduct.

⁴⁹⁹ See for example, Bruneau's discussion on this topic, as well as institutional dimensions of public and private national security and defense, Bruneau, *Patriots for profit : contractors and the military in U.S. national security*: Chapter 2 and Table 7.1.

E. LEGITIMACY

Legitimacy plays a major role in determining whether or not an agent or institution will be successful. There are, however, various approaches to determinations of legitimacy and there is a vast literature that explains different notions of what legitimacy is, what it means, and how it is achieved. In international relations, actions are legitimate when they conform to “internationally held norms, rules and understandings about what is good and appropriate.”⁵⁰⁰ However, legitimacy is also tied to power and the state or agent (or institution) who seeks to intervene or act. This can work, both in favor or against, ultimate efficacy of an intervention by an agent or institution. Hans Morgenthau makes the case that

*[l]egitimate power, which can evoke a moral or legal justification for its exercise, is likely to be more effective than equivalent illegitimate power, which cannot be so justified. That is to say, legitimate power has a better chance to influence the will of its objects than equivalent illegitimate power.*⁵⁰¹

Therefore, legitimate power is more effective than illegitimate power.⁵⁰² By extension, the legitimacy (or illegitimacy) of an actor can factor into the effectiveness of an intervention, or more specifically in this case, peacekeeping. If an actor’s motives and interests are collective in nature, and that actor is perceived as adhering to “internationally held norms, rules and understandings about what is good and appropriate,”⁵⁰³ then the likelihood is that the exercise of power in an intervention (or peacekeeping) would be more effective than if that actor’s motives and interests were

⁵⁰⁰ Martha Finnemore, *National interests in international society*, Cornell series on studies in political economy (Ithaca, N.Y.: Cornell University Press, 1996), 2–3.

⁵⁰¹ Hans J. Morgenthau and Kenneth W. Thompson, *Politics among nations : the struggle for power and peace*, Brief ed. (New York: McGraw-Hill, 1993), 32.

⁵⁰² Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*: 115.

⁵⁰³ Finnemore, *National interests in international society*, 1.

selfish.⁵⁰⁴ Using this logic, it can be seen that PSCs' motives and interests are selfish—profit, which, at least on one level, decreases their legitimacy to conduct interventions or peacekeeping.

Another view on legitimacy comes from the English School of international relations where legitimacy can be gained through membership in international societies, such as the UN, or NATO, or ECOWAS, etc., and adherence to the norms, rules, or structure of the organizations to which states may belong.⁵⁰⁵ For Ian Hurd, legitimacy “refers to an actor’s normative belief that a rule or institution ought to be obeyed.”⁵⁰⁶ This view implies, however, that the members reinforce and enhance their legitimacy through the actions they take and how power is exercised with regard to their standards.⁵⁰⁷ PSCs are clearly not members of international societies in the same manner that states may be. A trade association, such as the ISOA or BAPSC, may appear similar, but the fundamental interests are different from those of collective organizations of states. Collections of states can claim national security (or human security for that matter, as does the UN) as their aim; collections of companies can contribute to those aims, but they are not the central focus of the organization or association. Another major difference in the legitimacy of PSCs versus international societies is that, in the latter, consensus among members plays another large role in determinations of legitimacy. But a PSC does not gain legitimacy from other PSCs. Competition is not the driving factor between collections of states, where competition often exists between like companies, e.g. PSCs, who may be members of an association still vie for contracts.

⁵⁰⁴ Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*, introduction, 1–13.

⁵⁰⁵ For excellent discussions on legitimacy and international society see Ian Clark, *Legitimacy in international society* (Oxford ; New York: Oxford University Press, 2005); Martin Wight, “International Legitimacy,” *International Relations* 4, no. 1 (1972); Hedley Bull, *The anarchical society : a study of order in world politics*, 3rd ed. (New York: Columbia University Press, 2002).

⁵⁰⁶ Ian Hurd, *After anarchy : legitimacy and power in the United Nations Security Council* (Princeton, N.J.: Princeton University Press, 2007), 7.

⁵⁰⁷ Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*: 116.

Legitimacy can be achieved through legal means, politically, socially, through moral actions, or through agreements or contracts. Legitimacy can also be acquired through effectiveness. Eric Heinze argues that there are three primary factors in conferring legitimacy on an agent and that characteristics of each factor not only enhance legitimacy, but also effectiveness.⁵⁰⁸ The first factor he cites is multilateralism. It is a commonly held notion that for any form of humanitarian intervention or peacekeeping to be legitimate, it has to be multilateral;⁵⁰⁹ however, there may be times when speed and efficiency dictates that a state might act unilaterally.⁵¹⁰ Waiting for a multilateral coalition of states to reach a consensus and act can take a great deal of time, as can be seen in examples such as the UN and NATO's responses to ethnic cleansing, mass rape, murder, and other R2P crimes in the conflict in the former Yugoslavia, or in the UN's response to the genocide in Rwanda. Despite examples of failures of multilateral interventions, the pursuit of multilateral intervention remains worthwhile, considering the fact that unilateral intervention and the "dangers of partisan abuse are still great enough to prefer that the agent of intervention be a multilateral coalition."⁵¹¹

The second factor he points to in legitimation of any actor or organization intending to intervene is "humanitarian credentials."⁵¹² This factor deals specifically with the way the actor or organization conducts itself in accordance with prevailing norms of human dignity and human rights. Consequently, generally the only legitimate interveners are those governments, or collections of governments, who respect the rights and dignity of their own citizens.⁵¹³ Any collective body of governments that shows respect for human rights would be legitimate interveners. Consent plays an important role

⁵⁰⁸ Ibid.

⁵⁰⁹ See for example, Secretariat, "Peacekeeping Operations: Capstone Doctrine."; Martha Finnemore, *The purpose of intervention : changing beliefs about the use of force*, Cornell studies in security affairs (Ithaca: Cornell University Press, 2003).

⁵¹⁰ Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*.

⁵¹¹ Ibid., 117–20.

⁵¹² Ibid., 121.

⁵¹³ Fernando R. Tesón, *A philosophy of international law*, New perspectives on law, culture, and society (Boulder, Colo.: Westview Press, 1998), 59. Cited in Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*: 121.

in deciding which governments are legitimate because as liberal democratic theory contends, a sovereign is legitimate when it “conforms to democratic standards of good governance and respects the rights of its citizens.” Clearly, PSCs are not elected, nor are they holding public office, but does making them proxy agents of the government grant them legitimacy? This would be a difficult argument to support considering that they are neither bound by the same rules as the military acting as representatives of the government, nor are they public officials, responsible to a democratically elected government. If PSCs are to find legitimacy, it is more likely that they will find it in adherence to established norms of dignity and human rights over time, something they have not yet been able to do.

The third factor Heinze points to as necessary for legitimacy is “prevailing political context.”⁵¹⁴ What he means is that even with the first two requisites of legitimacy met, prevailing international political context can delegitimize an actor, negatively affecting their ability to conduct humanitarian intervention, or a mission such as peacekeeping. Heinze argues that, in many ways, the U.S. delegitimized themselves through the decisions that led to the invasion of Iraq (WMD), and even more so after evidence of prisoner abuse at Abu Ghraib was revealed.⁵¹⁵ Among other things, these actions diminished U.S. credibility as a standard-setter of international human rights norms and reduced U.S. legitimacy as agents of humanitarian intervention. PSCs’ actions in places like Iraq, Bosnia, Afghanistan, and others have certainly not earned them credibility as carriers of human rights norms, or the requisite “prevailing political context.”⁵¹⁶

So, even if PSCs could “maintain the requisite military capability, possess relevant humanitarian credentials, and act multilaterally, their diminished normative position in international society may still render them ineffective as humanitarian

⁵¹⁴ Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*: 123.

⁵¹⁵ *Ibid.*, 125.

⁵¹⁶ *Ibid.*

interveners”⁵¹⁷ (or peacekeepers). Additionally, the profit motive of PSCs is viewed as selfish, negatively affecting their legitimacy. Moreover, if PSCs are benefiting or based in U.S. or Western states, intervention (or peacekeeping) by them could be perceived as having other than a humanitarian motive—similar to problems the UN is having with some of its peacekeeping operations.⁵¹⁸ But if no one is willing to act to uphold internationally agreed-upon standards of protection of human rights and human security (such as R2P crimes), can the actions by a willing, yet illegitimate actor, be acceptable at least until a legitimate actor can engage or take action?

As pointed out above, multilateralism and humanitarian credentials are two areas where PSCs have had a difficult time securing legitimacy, hurting perceptions that they could be used as peacekeepers in the same capacity as IOs or ROs. But should this prevent PSCs from intervening as agents of legitimate governments when their function is to serve in a specific and necessary capacity in cases where governments refuse to intervene—genocide or ethnic cleansing for example? Heinze offers an analogy of a drowning swimmer and asks if there are any practical reasons for preventing a murderer from saving the person.⁵¹⁹ The issue of practicality versus a Kantian adherence to universal dictates of who can intervene based upon strict (moral and political) codes of legitimacy is addressed in greater detail in the following paragraphs on thresholds and measures of legitimacy and effectiveness.

James Pattison makes the case that legitimacy is based primarily on effectiveness.⁵²⁰ His argument is that if an actor can prove to be effective, they are, for all intents and purposes, legitimate. If private security companies can prove to be effective, then their legitimacy will be improved as they are increasingly used. If PSCs

⁵¹⁷ Ibid.

⁵¹⁸ For a discussion on reasons why UN missions and peacekeeping personnel are drawing criticism as agents of Western dominance (as well as a perception of diminished legitimacy), see Brahimi, “Towards a Culture of Security and Accountability.”

⁵¹⁹ Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*: 121–22.

⁵²⁰ Effectiveness as a fundamental component of legitimacy is central to Pattison’s argument throughout the book, in which he holds that “[t]he only *necessary* condition of legitimacy is effectiveness.” Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*: 185.

begin to encounter problems, similar to those that they had created in places like Bosnia, Iraq, and Afghanistan, then their legitimacy will be called back into question. According to Pattison there are varying degrees of legitimacy. Certain actors are fully legitimate, whereas others are moderately legitimate, and still others are only adequately legitimate.⁵²¹

In cases of intervention, the most legitimate actor is clearly the first choice. However, the most legitimate actor is not always willing to intervene. In the case that the most legitimate actor is not willing to intervene, then the next most legitimate actor has an obligation to intervene, and so on.⁵²² One of the problems with this theory of legitimacy and interveners is that certain actors, that is, the *most* legitimate actors, will be encouraged to intervene first in all cases. For reasons such as the most legitimate actors being already engaged, overstretched, or seen as imposing their will on weaker states, then the next most legitimate actor may have an obligation to take on the responsibility to intervene. There may be cases when the next most legitimate actor may not have the capacity or resources to intervene in a manner that would fulfill the responsibility to protect or protect civilians or reduce human suffering.

Based upon effectiveness, Pattison argues that the order of legitimacy is first, NATO; second, states or coalitions of the willing; third is the UN; fourth is regional and subregional organizations; and last is PSCs.⁵²³ Even though they are last, they still have a position in the ranking because of their ability to be effective in reducing human suffering, protecting human rights, and protecting civilians (R2P, PoC, human security).

There is also a difference between the *right* to intervene and the *duty* to intervene. While a state may have the right to intervene legally or through Security Council authorization, the state may not be the most legitimate actor, or even have adequate legitimacy. By the same token, an actor may have adequate legitimacy, may also have the duty to intervene, but not have the right to intervene, for example, if SC authorization is

⁵²¹ Ibid., 194–99.

⁵²² Ibid., 198.

⁵²³ Ibid., 199–212.

absent, the duty may exist, but the right may not. There are two central questions that arise from this difference between a “right” and a “duty” to intervene: 1) “Who has the right to intervene?” and 2) “Who has the duty to intervene?”⁵²⁴ Pattison argues that in response to the first question, “any intervener that possesses *an adequate degree of* legitimacy has the right to act (providing that they have just cause and are engaged in humanitarian intervention).”⁵²⁵ In response to the second question, “it is the *most* legitimate agent of humanitarian intervention that has the *duty* to act. The *most* legitimate agent will often be NATO or a hybrid operation that pairs a major Western power with the UN.”⁵²⁶ Finally, from the previous discussion, it can be seen that if the most legitimate agent fails to intervene, “the duty falls on the next most legitimate intervener, and so on.”

The married concepts of effectiveness and legitimacy are critical to actions that impinge upon human security. If an agent, for example the UN, has the legitimacy of 193 member states behind its actions, but fails to protect human security, then it is not effective; this ineffectiveness ultimately deteriorates the UN’s legitimacy. In fact, part of the problem that the UN is having in many C/PC states is that it is perceived as an illegitimate intervener and not representative of what is necessary for PoC, protection of human rights, and human security.⁵²⁷ Recent UN reports address the UN’s problems maintaining itself as a credible and legitimate agency, especially in light of failures to protect its own personnel in places like Angola and Iraq, or in its ability to protect

⁵²⁴ Ibid., 211.

⁵²⁵ Ibid.

⁵²⁶ Ibid.

⁵²⁷ Brahimi, “Towards a Culture of Security and Accountability,” 128.

civilians in places like Haiti or Syria.⁵²⁸ While the UN may be working on improving its legitimacy and effectiveness as an intervener, other interveners, such as NATO, ROs, or states, have an obligation to intervene under the collectively agreed-upon ideals of R2P, PoC, human rights, and human security. When the UN is not capable of being effective; and when none of the above are willing to step in, is there a point where PSCs (as long as they have *an adequate degree of legitimacy*)⁵²⁹ have a duty or a right to intervene, especially if they are the last (or only) actor willing to do so in the interests of PoC, R2P, human rights, or human security? This returns us to the discussion surrounding the question of the drowning swimmer—are there practical reasons for preventing a murderer from saving the person? A thorough review of the pros and cons of PSCs in peacekeeping points to one possible answer: the swimmer should be saved by the murderer and the murderer should be held accountable for her crimes.

This dissertation uses a consequentialist logic in determining legitimacy; one that combines elements of both Heinze's and Pattison's theories; one that holds that if a peacekeeping mission is justified and intervention is necessary, it must be to save people from imminent harm and the intervening agents must be able to accomplish their task (effectively protect people and maximize human security) while doing more good than harm. Simply refusing to allow a willing actor to prevent R2P crimes and maximize human security based upon a failure to meet a minimum threshold of legitimacy may be morally superior as a position, but it does nothing for those suffering aggravated violence. Thus, legitimacy, as a consequence of effectiveness, may be a sufficient, but not necessary factor in conducting peacekeeping.

⁵²⁸ The UN has increasingly found itself between a rock and a hard place when it comes to increased interventions in conflict areas and protection of its personnel. Reinforced security can create more of a buffer between UN personnel and those whom the UN is supposed to be helping, resulting in an "us versus them" environment. Increased security can also cause UN personnel to appear more as occupiers and less like partners. Finally, increases in security can create a perception of greater threat than may exist, resulting in a sort of security spiral. *See for example*, Ibid. *See also* United Nations Human Rights Council, "Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination," (New York: United Nations General Assembly, 5 July 2010).

⁵²⁹ Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*: 199.

F. CHAPTER CONCLUSION

This chapter reviewed cost comparisons, abuse, fraud, and criminal activity, and the concept of legitimacy as it applies to agents acting in the capacity to protect, e.g., peacekeepers, or as some PSC employees sometimes refer to themselves, “human security specialists.” Findings show that in the above areas, there is no clear answer or determination that pros outweigh cons for either peacekeepers or PSCs. However, it is clear that when the concept of human security is used to aid in making determinations of whether or not to use PSCs for peacekeeping, there are advantages that PSCs have that cannot be avoided: PSCs have a speed advantage over the UN. They can deploy more rapidly than can UN troops; there is only a contract to sign and a check to write.

Based on the findings in this chapter and earlier parts of this dissertation, it is recommended that the UN establish clear criteria for hiring PSCs in every contingency so that when contracts are required to be let, there is no question which PSCs are acceptable and which are not, to whom they report, what tasks they are to perform, and where their function or position ends. A policy on hiring PSCs has been debated at the UN, but it has seemed to stall and will likely take many years to come into effect, if it ever does.⁵³⁰ If the UN is ever to use PSCs for actual peacekeeping and potentially “robust” peacekeeping, it would certainly be advisable that hiring criteria be in place first, and not developed ad hoc or as a situation progresses.

⁵³⁰ Draft Convention on PSC use by the UN has been in debate since 2010, when it was first proposed. Council, “UN Report on Use of Mercenaries.” http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.25_en.pdf

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VI. CASE STUDIES—PLAUSIBILITY PROBE

This chapter contains case studies of Angola, Sierra Leone, and Bosnia from 1991 through 2001. The cases describe peacekeeping in its many different forms through the use of various actors, from local to regional organizations and PSCs and militias to UN peacekeepers. The cases describe and compare the performance of PSCs and the UN through different phases of peacekeeping from observing to enforcing and engagement in and attempts to stop civil war.

The case studies presented here are not an exhaustive analysis of the conflicts they review. They are used to provide a basis for evaluation of the pros and cons in cases where PSCs have performed tasks similar to those of UN peacekeepers. It was important to use cases where PSCs showed their greatest strengths, or at least the ones that are argued to have demonstrated the most of their strengths in the literature. This way we can see PSCs at their best and use those metrics to compare, since it is those qualities that are argued could potentially improve human security. If PSCs still come up short, or more relevantly, are seen as detrimental to human security, even at their best, then these case studies should serve as examples for comparison whenever PSCs are considered for peacekeeping or peacekeeping-related tasks.

It is also important to show cases where the UN was involved, failed then recovered, or was supported by other organizations so that the full range of UN capability could be reviewed and compared to claimed capabilities of PSCs. If, as Howard argues, the UN needs to be a learning organization for peacekeeping missions to be successful, then over the course of each of the cases I have chosen, it can be seen that the UN learned and modified its behavior institutionally, fundamentally, and practically.⁵³¹ The three cases chosen occurred all during mainly the same timeframe, the nineties, which was a period of transition for both PSCs and the UN. Following the Cold War, and beginning

⁵³¹ One of Howard's fundamental arguments in her book (referenced here) is that in order for the UN to achieve success in peacekeeping it must be a "learning organization." Howard, *UN peacekeeping in civil wars*.

with EO's intervention in Angola, the world of PSCs expanded rapidly. At the same time, the UN was making radical shifts in how it conducted peacekeeping—from traditional Chapter VI consensual missions to more robust Chapter VII intervention missions, all in the interest of halting war, preventing human suffering, and protecting human security.⁵³²

Angola offers a case which finds itself at the cusp of changes in UN peacekeeping operations as well as in the birth and growth of a new industry. Angola was chosen because it demonstrates the first use of a PSC [PMC] engaging in the closest thing to peacekeeping (peace enforcement) that a private company has ever found itself conducting. In Angola, the conflict had been going on for thirty years. It took just two years for a PSC to forcefully secure peace, but only weeks for it to fail following their departure. The UN failed initially in Angola; however, eventually, along with Western commitment and involvement, made strides toward long term peace.

In Sierra Leone, “three distinct attempts to maintain peace [two of which were brought on with the assistance of PMCs] allow for comparison in a single setting of both failed and (so far) successful peacekeeping attempts.”⁵³³ PSCs brought belligerents to the peace-making table twice, but failed to provide long-term and sustainable peace. Finally, a British military operation (Operation Barras) provided the necessary impetus toward sufficient UN peacekeeping involvement and ultimate peacekeeping success (UNAMSIL). The tactics used by the British SAS in Operation Barras were practically identical to those efforts taken by PSCs years earlier. The difference was UN support and effective UN cooperation, collaboration, and coordination following the British military's successful enforcement operation.

⁵³² Shifts in the way the UN conducts peacekeeping can be seen in many UN policy documents following the Cold War, as well as statements by both Boutros Boutros-Ghali and Kofi Annan in the early-to-mid nineties. This shift can also be seen in the Human Security Reports and the UN's core document on principles and guidelines. *See, for example*, Centre, “Human security report: war and peace in the 21st century.”; Secretariat, “Peacekeeping Operations: Capstone Doctrine.”; Boutros-Ghali, *An agenda for peace : preventive diplomacy, peacemaking, and peace-keeping : report of the Secretary-General pursuant to the statement adopted by the summit meeting of the Security Council on 31 January 1992*; Annan, “Intervention.”

⁵³³ Fortna, *Does Peacekeeping Work?*, 14.

Bosnia offers examples of extreme human rights abuses perpetrated by both UN peacekeepers and PSC personnel; it also offers a view to intervention by coalitions of the willing and regional organizations. The Bosnia case is one where PSCs and the UN both failed, but they both failed together, demonstrating that one is not necessarily better than the other, but that they failed because they failed to protect human security. Only once human security was protected and violence was ended, could real peace begin to take shape. Considering all the pros and cons compared, success or failure is not dependent upon one specific force, but the effectiveness of the force used in guaranteeing human security.

The case studies are not comprehensive cases from which conclusions will be drawn about the overall record of peacekeeping. For my purposes in this dissertation, the three case studies are plausibility probes, that is, does it make sense to use the narrow view of human security as a metric for determining PSC worthiness to conduct peacekeeping?

Using the fundamental goals of the UN, each case study offers a lens through which PSCs can be evaluated on their ability to improve (or degrade) human security.

A. ANGOLA

EO gave us this stability. In a perfect world, of course, we wouldn't need an organization like EO, but I'd be loath to say that they have to go just because they are mercenaries.

UN negotiator⁵³⁴

1. Historical Summary

After the Portuguese left Angola in 1975, three factions grew to prominence—all seeking power: the Movimento Popular de Libertação de Angola (MPLA), the Frente Nacional de Libertação de Angola (FNLA) and the União Nacional para a Independência

⁵³⁴ Herbert M. Howe, "Private Security Forces and African Stability: The Case of Executive Outcomes," *The Journal of Modern African Studies* 36, no. 2 (1998): 315.

Total de Angola (UNITA).⁵³⁵ The MPLA, a Marxist movement, took over the capitol of Luanda, and in 1976, soundly defeated the FNLA, leaving essentially two rivals for power in Angola.⁵³⁶ UNITA, however, controlled major parts of the country. On either side of these two movements were also two Cold War superpowers and their allies. The United States and South Africa sided with UNITA and the Soviet Union and Cuba sided with the MPLA. As a consequence of both sides being matched almost evenly in weaponry and support, the fighting between UNITA and the MPLA continued for almost fifteen years until the end of the Cold War and attempts at peace via the UN and the United Nations Angola Verification Mission. (UNAVEM).

UNAVEM was launched in December 1988, out of which came a multinational agreement that included Namibia's independence, the withdrawal of 50,000 Cuban troops in Angola in support of the MPLA, and peace between UNITA and the MPLA. Without the removal of the Cuban troops, South Africa (U.S. ally and supporter of UNITA) would not accept Namibia's plan for independence. The agreement also called for South Africa to abrogate support for UNITA.⁵³⁷ It was a long negotiation process but UNAVEM I concluded in May 1991 after the withdrawal of the Cuban troops and the few remaining South African troops. Peace appeared to be on the horizon, as both the recognized government of Angola, the MPLA, and the rebel group UNITA had been continuing peace negotiations with Portugal as mediator. At the head of the MPLA was President José Eduardo dos Santos and at the head of UNITA was Jonas Savimbi. The Peace Accords included: 1) a ceasefire agreement; 2) fundamental principles for the establishment of peace; 3) concepts for resolving "issues still pending between the

⁵³⁵ Paris, *At War's End : Building Peace After Civil Conflict*, 63.

⁵³⁶ United Nations, "Angola - UNAVEM I - Background," United Nations, <http://www.un.org/Depts/DPKO/Missions/unavem1/UnavemIB.htm>. website, accessed 14 July 12. Kaye Whiteman and Douglas Yates, "France, Britain, and the United States," in *West Africa's Security Challenges: Building Peace in a Trouble Region*, ed. Adekeye Adebajo and Ismail Rashid (Boulder: Lynne Rienner, 2004), 359.

⁵³⁷ United Nations. and United Nations. Dept. of Public Information., *The Blue Helmets : A Review Of United Nations Peace-Keeping*, 3rd ed. (New York, NY: United Nations Dept. of Public Information, 1996), 234–36.

Government and UNITA”; and 4) the Protocol of Estoril, which was essentially the signed peace accord between the two leaders under Portuguese mediation.⁵³⁸

With the peace accords in place, the government of Angola requested support from the UN to monitor the ceasefire. In response, the UN sent 350 unarmed military observers and up to 90 UNAVEM police observers. The observers were deployed to critical locations throughout the country, as well as 46 locations where both sides’ troops had assembled.⁵³⁹ In addition to ceasefire monitoring troops, Angola requested UN technical assistance in preparing for elections. In response to the request, the Security Council created resolution 747 (1992) enlarging the mandate to include observation of elections.⁵⁴⁰

Both sides had agreed to “free and fair” elections as well as monitoring by Portuguese, U.S., and Soviet observers. The MPLA and UNITA were to supervise the elections along with monitoring and implementing the peace accords. A number of other humanitarian aid organizations also assisted in providing support to both parties in order to keep the peace and ensure proper conduct of the elections, to include the UN Development Programme (UNDP), UN High Commissioner for Refugees (UNHCR), and the International Committee of the Red Cross (ICRC).⁵⁴¹

In October, 1992, despite what were considered by the international community and the UN to be “free and fair” elections by international observers (including the UNDP), Savimbi’s UNITA disputed the results before they were even posted. Instead of going to the required second round of voting because dos Santos had not won more than 50 percent of the vote (he won 49.57 to 40.07), Savimbi began to occupy government

⁵³⁸ United Nations, “Angola - UNAVEM II - Background,” <http://www.un.org/en/peacekeeping/missions/past/Unavem2/UnavemIIB.htm>. website, accessed 14 July 2012.

⁵³⁹ Ibid., sections 2 & 3.

⁵⁴⁰ Ibid., section 4. Resolution 747 can be found at: <http://www.unhcr.org/refworld/country,,,RESOLUTION,AGO,,3b00f15750,0.html>, accessed, 14 July 2012.

⁵⁴¹ Fen Osler Hampson, *Nurturing Peace : Why Peace Settlements Succeed Or Fail* (Washington, DC.: United States Institute of Peace Press, 1996), 124. Cited in Paris, *At war's end : building peace after civil conflict*: 64.

offices and take over entire municipalities.⁵⁴² Within twenty-four hours of the UN declaring support of the election results, heavy fighting broke out in the capital of Luanda between the MPLA's Angolan Armed Forces (FAA--Forças Armadas Angolanas) and UNITA forces. In less than two months the UNSG was forced to admit that "Angola has returned to civil war, and is probably in an even worse situation than that which prevailed before the Peace Accords were signed in May 1991."⁵⁴³

Fighting throughout the country continued to worsen. The FAA regained the capital, Luanda, but UNITA was taking over the majority of the countryside and municipalities outside; this included the majority of roads and the diamond producing region, one of Angola's primary means of income. In the next two years, as fighting intensified, the UN chose to reduce its strength instead of increasing it in order to stop the bloodshed. While the UN and the international community "abandoned Angola at this critical moment in the country's history," and "merely" observed, approximately 300,000 people were killed in fighting.⁵⁴⁴

Decreasing interest by the West to intervene in African affairs was never more evident than in crises throughout Africa during this period in time.⁵⁴⁵ There were also rumors that because of Western influence, the UN was "turning a blind eye to UNITA's activities while condemning every action taken by the FAA."⁵⁴⁶ In the midst of the fighting, in 1993, the South African Defense Force volunteered to train the FAA to fight against UNITA. Suspicious that the SADF's offers to help train the FAA were a ruse to actually help them lose the war, General Luis Faceira of the FAA began a dialogue with

⁵⁴² Nations, "UNAVEM II"; Paris, *At War's End : Building Peace After Civil Conflict*: 67.

⁵⁴³ Nations, "UNAVEM II."

⁵⁴⁴ United States Institute of Peace (USIP), "Special Report on Angola," (Washington, DC: United States Institute of Peace, 1996); Howard, *UN Peacekeeping In Civil Wars*: 37; Christopher Pycroft, "The Forgotten Tragedy," *Journal of Southern African Studies* 20, no. 2 (June 1994): 241.

⁵⁴⁵ Timothy Sisk, "Future U.S. Engagement in Africa: Opportunities and Obstacles for Conflict Management," (Washington, DC: United States Institute of Peace, July 1996).

⁵⁴⁶ Barlow, *Executive Outcomes: Against All Odds*, 148.

Eeben Barlow, a former South African Defense Force soldier and the director of a new private military company, Executive Outcomes (EO).⁵⁴⁷

What makes this civil war so complex is that during the Cold War, the conflict in Angola was considered a proxy war between the U.S. and the Soviet Union.⁵⁴⁸ After the Cold War, the U.S. found itself still partially aligned with a rebel group, UNITA, but UNITA was not the recognized government. Moreover, UNITA's aggression toward the MPLA was beginning to gather international attention due to the massive numbers being killed—nearly 3 percent of the population had been killed by 1994, less than two years after the peace agreement and “free and fair” elections.⁵⁴⁹ “More Angolans died as a result of the war in the two years between October 1992 and November 1994 than in the sixteen years of conflict before 1991.”⁵⁵⁰ When UNITA began to take over the oil fields, restricting the flow of oil to Western nations, and especially the U.S., alliances began to shift away from UNITA, but major powers still did not want to get directly involved to stop the fighting.

Another problem was that until 1991 and the peace accords, South Africa had been on the side of UNITA (as had the U.S.). After fighting broke out again following the elections, there were many South African Defence Force (SADF) soldiers sympathetic to UNITA, so in 1994 when the SADF was dissolved and integrated into the South African National Defence Force (SANDF), a good number of former soldiers found themselves out of work. Many of them, unable to use their skills at home in South Africa, began to hire themselves out as mercenaries throughout Africa. Of those, some found themselves on the side of UNITA, a force with whom they had worked previously. However, UNITA

⁵⁴⁷ Ibid., 150.

⁵⁴⁸ Cleary cites Chester A. Crocker, *High noon in southern Africa : making peace in a rough neighborhood*, 1st ed. (New York: W.W. Norton, 1992), 293–96. Cleary writes that it was “a modest, ostensibly covert, though widely discussed, military support programme for UNITA, administered by the CIA.” Sean Cleary, “Angola—A Case Study of Private Military Involvement,” in *Peace, Profit or Plunder: The Privatisation of Security in War-torn African Societies*, ed. Jakkie Cilliers and Peggy Mason (Johannesburg: Institute for Security Studies, 1999), 142.

⁵⁴⁹ (USIP), “Special Report on Angola.” Some estimates placed those killed in this two-year span at 500,000. See Cleary, “Angola-PMC Involvement,” 146.

⁵⁵⁰ Cleary, “Angola-PMC Involvement,” 146.

did not represent the legitimate government of Angola. When EO came on the scene, the company had not only “legitimized” itself through incorporation and previous security work in Pretoria, but had begun contract negotiations with the recognized government of Angola, the MPLA.⁵⁵¹ Initial discussions focused on how to train the FAA and enable them to fight effectively against the UNITA rebels. Talks quickly progressed to accompanying them into the field and ultimately to joining them in combat.⁵⁵²

Neither UN reports nor many scholarly articles on Angola covering the years between 1992 and 1994 discuss what occurred to effect a turnaround in the civil war (in favor of the MPLA) and bring the parties in conflict to the Lusaka peace accords. In fact, Roland Paris does not even break paragraphs when he writes that, “Fighting continued for the next two years...In November 1994, after the MPLA had reversed UNITA’s territorial gains, the parties signed a new cease-fire and peace agreement in Lusaka, Zambia...”⁵⁵³ After Paris provides a careful and detailed analysis of factors influencing the shifting political, military, and international positions in Angola, private actors receive no mention. The UN’s UNAVEM reports from the same period also do not make mention of how Angola’s government turned the tide on UNITA and brought them to peace negotiations.

Unable to seek help from the Soviet Union or Cuba in a post-Cold War world, the MPLA had few places to turn. The UN had, by most accounts, abandoned Angola to its civil war at this point, acting as observers, standing by when and if parties could make it to the bargaining table. By 1993 Joseph Savimbi controlled 80-percent of the countryside, and was continuing to advance on the capitol.⁵⁵⁴ It is suspected that diamond, oil, and gas interests, and specifically Tony Buckingham, president of the Branch Group (which includes Heritage Oil and Gas), introduced the MPLA government to EO hoping that

⁵⁵¹ Venter, *War Dog : Fighting Other People’s Wars : The Modern Mercenary In Combat*: 352–60.

⁵⁵² A J Venter and Eeben Barlow both discuss the desperation of the democratically elected Angolan government (MPLA), literally fighting for their lives while the UN reduced forces and Western powers stood back and did not get directly involved. Ibid., Ch. 15; Barlow, *Executive Outcomes: against all odds*: Ch. 12.

⁵⁵³ Paris, *At War’s End : Building Peace After Civil Conflict*, 67.

⁵⁵⁴ Howe, “Private Security Forces and African Stability: The Case of Executive Outcomes,” 311.

dual interests could be served: 1) maintain control of oil, gas, and diamond fields; and 2) preserve the MPLA government and push UNITA towards peace.⁵⁵⁵

EO was able to operate more cheaply than the UN. While the UN authorized \$383 million in funding for one year's worth of observation, EO was hired to train and accompany the FAA in pushing UNITA back for the sum of \$40 million.⁵⁵⁶ EO's contract was extended beyond the first year and Eeben Barlow, the president of EO claims that the MPLA government paid them a total of \$60 million for four years' work (1993–1997);⁵⁵⁷ other accounts put EO's payment at \$40 million per year (including weapons), which supposedly included untold amounts in mineral concessions.⁵⁵⁸ In contrast, the UN spent more than \$1.5 billion for the same time period during UNAVEM III, and did very little to stop the violence or end civil war.⁵⁵⁹

UNITA's gains were reversed through the involvement of EO.⁵⁶⁰ It is widely accepted that EO's efforts, though guided by monetary reward (and possibly mineral concessions), are the primary reason that the FAA was able to push UNITA back and get

⁵⁵⁵ Nigeria The Guardian, "Former Mercenary Signs \$850m Nigerian Oil Deal," *The Guardian* 15 July 2012. Angela McIntyre and Taya Weiss, "Weak Governments in Search of Strength: Africa's Experience of Mercenaries and Private Military Companies," in *From Mercenaries to Market: The Rise and Regulation of Private Military Companies*, ed. Simon Chesterman and Chia Lehnardt (Oxford: Oxford University Press, 2007), 70–71.

⁵⁵⁶ Howard, *UN peacekeeping in civil wars*; Howe, "Private Security Forces and African Stability: The Case of Executive Outcomes."

⁵⁵⁷ Barlow, *Executive Outcomes: Against All Odds*, 541.

⁵⁵⁸ The assertion that EO or its officers received mineral concessions is disputed by the company's president, Eeben Barlow. There is no evidence that mineral concessions were granted to EO or any other PSC operating in Angola or Sierra Leone. Howe, *Ambiguous Order*, 204–05.

⁵⁵⁹ Barlow, *Executive Outcomes: Against All Odds*, 540.

⁵⁶⁰ Shearer and International Institute for Strategic Studies., *Private armies and military intervention*: 65.

Savimbi to agree to the Lusaka Accords.⁵⁶¹ However, there is a paucity of coverage of EO's role in the peacekeeping literature.

2. Role of PSCs

EO's successes in fighting alongside the FAA against UNITA granted them a certain legitimacy and strengthened their credibility with not only the Angolan government (MPLA), but other governments, such as Sierra Leone and Papua New Guinea.⁵⁶² EO operatives, under contract with the FAA, and at a cost of perhaps \$40 million per year, forced UNITA to the negotiating table. EO also assisted the MPLA to regain the diamond and oil fields by pushing UNITA out and allowing production in support of the state to resume. Claims to be protecting civilian populations were quickly dismissed as secondary to EO's desire for monetary gain.⁵⁶³ EO set a precedent of effectiveness as a military force for hire, prepared to create or regain security, but at a price. Although they were able to end violence and restore order, any successes that EO achieved were only temporary, and in the end, EO failed to create long term peace and security in Angola.

3. Role of International Peacekeepers

The UN spent \$1.5 billion with a maximum strength of 7,000 troops in an effort to bring peace and stability to Angola.⁵⁶⁴ Unlike EO, the UN was committed to Angola

⁵⁶¹ See for example, Venter, *War dog : fighting other people's wars : the modern mercenary in combat*: Chapters 15–18; Howe, *Ambiguous Order*: 202–05; Elke Krahmann, "Transitional States In Search of Support: Private Military Companies and Security Sector Reform," in *From Mercenaries to Market: The Rise and Regulation of Private Military Companies*, ed. Simon Chesterman and Chia Lehnardt (Oxford: Oxford University Press, 2007), 102–02; Weiss, "Weak Governments in Search of Strength," Chapter 4. Reciprocally, there is no mention of EO in, for example, Paris, *At War's End : Building Peace After Civil Conflict*. Nations, "UNAVEM II"; Howard, *UN peacekeeping in civil wars*; Fortna, *Does Peacekeeping Work?* And only brief mention in, for example, Durch, *Twenty-First-Century Peace Operations*; Bellamy, Williams, and Griffin, *Understanding Peacekeeping*.

⁵⁶² Shearer and International Institute for Strategic Studies., *Private armies and military intervention*: 46–55; Venter, *War Dog : Fighting Other People's Wars : The Modern Mercenary In Combat*: 461–64.

⁵⁶³ Howe, "Private Security Forces and African Stability: The Case of Executive Outcomes." See also ———, *Ambiguous Order*: 204–05.

⁵⁶⁴ United Nations, "UNAVEM III Facts and Figures as of 30 June 1997," United Nations Department of Public Information, http://www.un.org/Depts/DPKO/Missions/unavem_f.htm. See also www.un.org/Depts/Missions/unavem_p.htm.

for the long term, and ultimately was able to create human security. The disadvantage to the UN's approach in Angola was that human rights abuses and violence continued until UN peacekeepers could become sufficiently aligned on ROE and engage and stop those committing the abuses. Had the UN engaged sooner and more robustly, it is possible that UNITA-inflicted violence could have been stopped as quickly as EO had done—the UN also had something that EO did not have: credibility. Unfortunately for the Angolan people, this was not the case. The Angolan conflict is one where it is clear that the UN's intervention was too little too late, and because the UN did not intervene early, at the time when EO was first hired, the MPLA believed that it had no choice but to hire a private military company to save its failing government.

4. Use of PSC Pros and Cons

Table 7 presents my conclusions regarding the various pros and cons of PSC involvement suggested by the foregoing review of Angola. The side in the table italicized in bold shows heavier weighting toward a specific pro or con. I elaborate below on my reasons for drawing these conclusions.

Table 7. Pros and Cons of PSC use in Angola

Pros	Cons
<i>Adherence to Contracts</i>	Adherence to Contracts
<i>Cost</i>	Cost
<i>Legitimacy</i>	Legitimacy
Human Security and Human Rights	<i>Human Security and Human Rights</i>
<i>Effectiveness</i>	Effectiveness
<i>Speed and Flexibility</i>	Speed and Flexibility
Public Relations	<i>Public Relations</i>

a. Adherence to Contracts

- Pro

EO did what it was contracted to do. A private company cannot be expected to act outside the bounds of its contracted obligations just as UN personnel cannot be expected to act outside the bounds of the SC mandate or their orders. Broadly written contracts that spell out the “what,” but not the “how,” can work to give a private contractor flexibility in fulfilling the contract. The advantage to this type of contract is that it can ensure the accomplishment of specific objectives. The problem with this type of contract is that there is a good deal of room for waste, fraud, and abuse.

In the case of Angola, expediency was of utmost importance not only to the MPLA government likely to be overthrown, but to the oil and diamond industries. Restricting the activities of EO or limiting their involvement might have allowed UNITA to take over the country. It is not possible to know whether this would have actually degraded matters. The fact is, the big money interests of Tony Buckingham and Branch Energy were closely aligned with the government of Angolan President José dos Santos. EO’s objectives were clear: push UNITA out of the oil and diamond fields and force them to the bargaining table with the legitimate and democratically elected government of Angola—EO accomplished this. Had the UN followed up with peacekeeping forces and enforced a mandate based upon the Lusaka Accords, human security would have been protected; the UN failed, EO did not.

- Con

EO adhered to both of their contracts in Angola and was paid in full for their services to Sonangol (the nationalized oil company), the other oil companies, and the MPLA.⁵⁶⁵ One of the problems, however, was that their contract was vague enough that although their contracted mission was to train the FAA, they were also to accompany them to the field to combat UNITA. Because they were to be placed in potential danger, they had a choice, to carry weapons or leave themselves vulnerable and dependent on the FAA to protect them. Barlow decided to allow his operators to arm themselves to “ensure that their chances of survival would be as high as possible.”⁵⁶⁶ The contract did not disallow the use of their weapons to support the FAA. The disadvantage is that because EO operators had chosen to fight alongside the FAA, and were in the field with AK-47 assault rifles and PKM machine guns, the media classified them as mercenaries.⁵⁶⁷

Insinuation that these newly-formed private military companies were bands of mercenaries or were soldiers of fortune under a new label discouraged any UN cooperation or collaboration, regardless of whether or not the companies forwarded UN goals. The conflict in which EO found itself took place in an environment where political interests and former Cold War ties were not always aligned with EO’s objectives.⁵⁶⁸ Without the requisite coordination between EO and the UN, any successes

⁵⁶⁵ Sonangol paid \$80K for EO’s services in retaking the oil fields; Branch Energy had interests in the diamond fields being returned to the MPLA, so there is a good likelihood that Branch Energy supported EO (not supported by solid evidence). The Angolan government paid the majority of the bill (\$60M).

⁵⁶⁶ Barlow, *Executive Outcomes: Against All Odds*, 107.

⁵⁶⁷ Barlow spends a good bit of time in his book discussing the negative press his company (EO) got from their operations in Angola, Sierra Leone, and elsewhere. His contention is that much of the negative press was either outright lying, exaggeration, or directed at his company by jealous rivals. Barlow commits a good deal of time in later chapters of his book in defense of EO’s actions, reprinting media stories and refuting them. *See Ibid.*

⁵⁶⁸ The U.S. had previously supported UNITA; USSR and Cuba supported the MPLA. After the Portuguese pulled out, the war for Angola became essentially a proxy war until the MPLA was democratically elected under UN supervision in 1992. Business interests were also tied to who was to win the country. Since U.S. and S.A. interests were aligned with UNITA, political and business interests did not welcome EO’s involvement, especially when it was seen that EO was turning the tide of the conflict in favor of the MPLA. Rightly or wrongly, EO was accused of mercenary activity and had made enemies with previous allies in both the S.A. government and the SADF.

EO claimed were lost when they left, putting the country back in danger of falling back into civil war (which is exactly what happened). Hiring PSCs protects human security for only as long as a contract is in place, and unless protecting people is in the contract, PSCs' interests are a function of profit, not human security. Long term support and human security was not in the interest of EO—it remained the domain of the international community and the UN. However, as long as EO was operating in Angola, the UN was, in a sense, relieved of their responsibility to act. Moreover, as was mentioned earlier, the UN during this time was viewed by many as abandoning African states like Angola.⁵⁶⁹

b. Cost

• **Pro**

Cost can be considered a pro in this case when compared directly against costs borne by the UN, the SADF, and the CIA. UNAVEM III cost the UN \$135 million for a single year (1996–1997), the SADF spent \$30 million per month and \$80 million per year in aid and weapons, and the CIA an estimated \$15–20 million per year from 1986 until 1991 in covert aid. See Table 8 for a breakdown and comparison of costs. The military assistance provided by EO, which turned the tide of the conflict in favor of the MPLA, cost an estimated \$40 million per year.⁵⁷⁰ EO initially used a small team of less than thirty operators backed by two Angolan battalions to secure the Soyo oilfields.⁵⁷¹ This was a deal brokered by Tony Buckingham, supported by the dos Santos government, and paid for by a consortium of oil interests including Chevron, Texaco, Elf-Fina-Gulf, and Petrangol.⁵⁷² According to Barlow, EO's president, EO received \$80,000 from the oil companies to secure the oil fields. After defeating UNITA in the oilfields,

⁵⁶⁹ See for example, (USIP), "Special Report on Angola."; Pycroft, "The Forgotten Tragedy."

⁵⁷⁰ David Shearer, "Outsourcing War," *Foreign Policy* 112(1998): 73, 79; Barlow, *Executive Outcomes: Against All Odds*, 540.

⁵⁷¹ EO used no more than 28 men for this operation and completed it within two months. Weiss, "Weak Governments in Search of Strength," 70–71. Other accounts place the number between forty and eighty men. Singer, *Corporate Warriors*: 108; Venter, *War Dog : Fighting Other People's Wars : The Modern Mercenary In Combat*, 358–59.

⁵⁷² Bellamy, Williams, and Griffin, *Understanding Peacekeeping*, 205; Howe, *Ambiguous Order*: 206–10.

the MPLA hired EO to work alongside the FAA to force UNITA out of the diamond fields (a critical source of revenue) and cities throughout the country and bring them to the bargaining table. EO did what it was paid to do. Following success in the oil and diamond fields, EO brought in 500 operators, signed a contract with the MPLA, and stayed within agreed-upon costs, bringing UNITA to peace accords. This time it was the Angolan government footing EO's bill, but again, EO remained within costs and met their contract.

- Con

When compared directly against the costs of the UN operations in Angola (UNAVEM I, II, III), EO's costs were small. But considering that their efforts resulted in nothing more than a prolonging of the conflict, their cost was a waste of the MPLA's limited finances. Another factor to consider when weighing costs is where the money came from. The money paid to EO came directly from Angola's coffers; the money the UN spent on the UNAVEM missions came from the international community and was returned to primarily developing nations through peacekeepers or was spent on infrastructure and stabilization efforts within Angola. None of the money EO collected was directly reinvested in Angola. EO may have helped the FAA force UNITA to the bargaining table but they certainly did not have the resources, capabilities, or staying power to bring long term peace and security to Angola.

Table 8. Angola Peacekeeping Costs⁵⁷³

ORGANIZATION	TIME FRAME	\$ COST PER YEAR	TOTAL OPERATION COST	RESULT
Executive Outcomes (500 operators)	1994–1997	\$40 million (Original contract cost for one year)	\$60 million \$80,000 was paid by oil companies in first operation	<u>Contract Success</u> -FAA defeated UNITA -MPLA regained diamond mines -Oil companies regained oil fields -UNITA signed cease-fire and peace accords -Free & fair elections held
UN (UNAVEM I—III) (<4,000 military troops)	1999–2006	\$135 million	\$1.5 billion since Lusaka Accords (1993)	<u>Failure</u> -No cease fire -Hostilities between UNITA & MPLA continued
SADF	1985–1997	\$80 million (Aid and weapons to UNITA) \$30 million to provide SADF troops	>\$1 billion	<u>Failure</u> -UNITA lost -Elephant herds decimated by UNITA to sell ivory
CIA & U.S. Covert Aid	1986–1991	\$15–20 million (Aid to UNITA)	Approx. \$250 million	<u>Failure</u> -UNITA defeated

⁵⁷³ Cost table adapted from Barlow, *Executive Outcomes: Against All Odds*: Appendix B. Figures within table are readily available and have been compiled from numerous sources, *see for example*, William J. Durch, *The Evolution of UN peacekeeping : Case Studies And Comparative Analysis* (New York, NY: St. Martin's Press, 1993), 393–94; Nations, “UNAVEM II”; Nations, “UNAVEM III Facts and Figures”; Howard, *UN peacekeeping In Civil Wars*: 35–39.

c. *Legitimacy*

- Pro

Some have argued that legitimacy can be equated with effectiveness.⁵⁷⁴ This is also associated with the “favorable-outcomes approach,” as put forward by Ian Hurd, in *After Anarchy: Legitimacy and Power in the United Nations Security Council*.⁵⁷⁵ A security force (or peacekeeping force) that fails to protect people or cannot accomplish what they were sent to do does not earn legitimacy. Questions of legitimacy were not initially a concern when EO first entered Angola. Effectiveness was all that mattered to the oil companies who contracted EO to come in and recover the Soyo oilfields from UNITA, which was using the extraction and refining facilities for its own gain. Of key importance was their expertise as former SADF soldiers (most of whom were special operations forces (SOF)) and the potential that they could do the job when it was clear that the FAA could not. Legitimacy was established through their success in retaking the oilfields, and then their follow-on contract with the MPLA government. Pattison, who writes extensively on legitimacy in his book, *Humanitarian Intervention and the Responsibility to Protect*, convincingly argues that “[t]he most important factor for the legitimacy of an intervener is its effectiveness.”⁵⁷⁶ From the point of view of Sonangol and the Western oil companies, EO was effective since they accomplished exactly as they were hired to do. The de Santos government was certainly thankful that UNITA had not overrun the capital and overthrown the regime. From a human rights point of view, the MPLA and many Angolans were thankful that EO had stepped in, since their presence stopped the war (if only temporarily) and brought the parties to peace accords. By other determinations of legitimacy, EO can be said to have earned “humanitarian credentials” through stopping the violence and killing, as well as having

⁵⁷⁴ Broadly discussed throughout his book, Pattison places effectiveness in a position of prime importance for determinations of legitimacy. See Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*

⁵⁷⁵ Hurd, *After Anarchy*, summary.

⁵⁷⁶ Pattison, *Humanitarian Intervention And The Responsibility To Protect : Who Should Intervene?:* 32, 182–85. Pattison discusses legitimacy as “morally justifiable power,” and that interveners must have at least an *adequate degree* of legitimacy as long as it is effective. “The only *necessary* condition of legitimacy is effectiveness.”

achieved positive “prevailing political context,” since they were perceived as having saved a government from an almost certain demise.⁵⁷⁷

EO’s operations in Angola and with the FAA “established it as an effective PMC able to supply security specialists to governments to help train their security forces and provide military protection against local insurgencies. It also proved a PMC could have a positive impact on a country’s security situation.”⁵⁷⁸ It is likely that EO’s successes in Angola are the reason Valentine Strasser’s newly formed NPRC looked to hire EO to stop the advances of the RUF in Sierra Leone. EO’s effectiveness, as well as their “humanitarian credentials” and “prevailing political context” (though fleeting) legitimized EO, at least to those who were doing the hiring.⁵⁷⁹

- Con

Any legitimacy EO had was undermined by the fact that they were not there for the long term and they were not supported by the international community in their intervention. Additionally, they lost legitimacy through an inability to work with their home government of South Africa or members of their home military (SADF) who also offered to help train the FAA. Though EO may have had the “prevailing political context” and limited “humanitarian credentials” immediately after they stopped the violence which ultimately brought the parties to the negotiating table, these legitimating factors were quickly lost when EO exited and the country returned to civil war.⁵⁸⁰ In fact, when EO left and the fighting got worse, they proved that they were not there to help Angolans, but there only to make a profit.

⁵⁷⁷ Heinze, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention*.

⁵⁷⁸ Christopher Kinsey, *Corporate Soldiers And International Security : The Rise Of Private Military Companies*, Contemporary security studies (New York, NY: Routledge, 2006), 62.

⁵⁷⁹ This is a combination of both Pattison and Heinze’s arguments for what creates legitimacy in humanitarian intervention, as discussed in Ch. IV. See Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene*; Heinze, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention*.

⁵⁸⁰ ———, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention*, 117–25.

If, as Pattison argues, effectiveness is the ultimate determinant of legitimacy, then although EO may have been effective in the short term, they were certainly not effective at creating peace or security in the long term.⁵⁸¹

d. Human Security and Human Rights

- Pro

EO's focused efforts with the FAA in attacking UNITA soldiers and positions prevented much collateral damage and forced UNITA out of populated areas, reducing violence to non-combatants. Additionally, their rapid advance on UNITA's forces disallowed UNITA's integration in communities where civilian deaths could have potentially been much higher. Unlike future engagements by PSCs in other countries, allegations of human rights abuses in Angola were minimal.

EO's president, Eeben Barlow, does admit, however, that some of his men had attempted to secretly buy and sell diamonds by smuggling them out of the country during their trips abroad. As he writes, "I was also painfully aware that the smuggled diamonds were fuelling and paying for the bloody and protracted war we were trying to stop..."⁵⁸² Certainly, this behavior is not exclusive to privatized soldiers, but if it was ever perceived as behavior countenanced by EO's leadership, EO's reputation, now aligned with the MPLA and FAA, would be damaged and gains against UNITA would be compromised, ultimately prolonging the war. Barlow worked with the Angolan government to plant informants within his operation and the FAA and soon arrested or fired individuals suspected of smuggling. After this event, Barlow claims that he "appointed his own security staff to search all personnel boarding aircraft bound for South Africa."⁵⁸³ There is no doubt that illegal diamonds and unscrupulous buyers were contributing to the conflict and immiseration of many Angolans. Efforts to address smuggling and other illicit business activities by a PMC are necessary especially if states

⁵⁸¹ Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*: 185.

⁵⁸² Barlow, *Executive Outcomes: Against All Odds*, 181.

⁵⁸³ Ibid.

or international organizations such as the UN are to use them. When reputations are tied to effectiveness, proper maintenance of accountability is necessary.

- Con

EO failed to prevent the country from devolving back into war after their departure from the country. Preventing the resumption of war was not in their contract with the MPLA, but from a perspective that creating peace necessarily involves securing sustainable protection to persons and communities, they were unable to accomplish this essential mission. More people were killed in the period between when EO “brought peace” through forcing parties to the bargaining table than during any other time in the country’s more than twenty-year war. This is one of the fundamental flaws of private companies with regard to long-term support and sustainability: when the contract is over, and unless it is renegotiated or extended, they will leave.⁵⁸⁴ Humanitarian principles do not guide action; contracts and profits do.

To conclude, as many have written, that EO brought peace to Angola, but that the international community failed to follow-up with credible commitments or support neglects the fact that not one successful peace mission has had peacekeepers leave before the effects of peace agreements could be at least initially monitored or enforced.⁵⁸⁵ The UN may not always be successful at keeping the peace, but there is a system in place that evaluates the likelihood of sustainable peace following departure, especially when states are vulnerable, or when security is tenuous. This system of humanitarian principles and “good practices” is part of the UN’s policy of “how to stay,” rather than “when to leave.”⁵⁸⁶

⁵⁸⁴ Cockayne, “Interview with James Cockayne, Co-Director, Center on Global Counter-Terrorism Cooperation.”

⁵⁸⁵ See for example Howard, *UN Peacekeeping In Civil Wars*; Jett, *Why peacekeeping fails*; Durch, *Twenty-First-Century Peace Operations*; Fortna, *Does Peacekeeping Work?*

⁵⁸⁶ “Good practices” comes from the Montreux Document—the word “good” versus “best” was used because no one could agree on “best” practices. The UN’s ethos has become “how to stay” rather than “when to leave,” in an effort to show long-term support and conduct the full meaning of the word “peacebuilding.” Branch, “Stay and Deliver.”

e. *Effectiveness*

- Pro

PSCs can be both efficient and effective. For a discussion on efficiency and effectiveness, see Bruneau, *Patriots for Profit*, in which he addresses and describes differences between the two.⁵⁸⁷ Essentially, effectiveness is “the ability to achieve stated goals”;⁵⁸⁸ efficiency is a more difficult concept, but includes the responsible and cost-effective use of resources to fulfill assigned roles and missions.⁵⁸⁹ PSCs can be efficient in the role of peacekeeping (all forms) for many of the reasons that governments and international organizations cannot: they are usually smaller, can respond more quickly when contracted, and they can be less costly both dollar-wise and politically. Efficiency can be found through offering services which, on the face, could only be met by much larger multinational or national forces after a process of standing up and training units for missions which can take a great deal of time and carry significant costs. Compared to multinational military forces, PSCs have fewer employees who are often a fairly cohesive unit because they are recruited from people who speak the same language and have similar customs. Moreover, the PSC’s role is to respond and meet the requirements of its contract while maximizing profit. Doing this ostensibly keeps PSCs competitive and ultimately earns them more business. EO’s effectiveness and efficiency in achieving their objectives apparently impressed the MPLA government because soon after their successes in the Soyo oilfields they were hired to train and assist the FAA in taking back the diamond fields from UNITA. The diamond fields were critical since diamonds funded whichever side controlled the mines. Once EO and the FAA took back the oil and diamond fields, returning them to the control of Western interests and the MPLA, the loss of income and battlefield defeats forced UNITA to the Lusaka Accords

⁵⁸⁷ Bruneau, *Patriots For Profit : Contractors And The Military In U.S. National Security*, 31–41.

⁵⁸⁸ Ibid., 33.

⁵⁸⁹ Efficiency is more problematic than effectiveness since, where public security is concerned, the “so-called bottom line doesn’t apply, there is no market mechanism to assign a value to whether an activity is being done efficiently—that is, making a profit or not.” Ibid., 38.

in November 1994. As Singer notes, “Defense Strategists...credit EO with being an essential component in reinvigorating the FAA and turning the war’s tide.”⁵⁹⁰

- Con

William Reno writes that reliance on PSCs ultimately undermines the possibilities of reform. This is because “foreign firms and mercenaries that take over conventional state functions”⁵⁹¹ relieve pressure on the state to deal with the problems it confronts. Once this occurs, the underlying issues are covered over, waiting to resurface at the first sign of advantage for one side or the other. In the case of Angola, when EO and the FAA backed off after recapturing the oil fields in Soyo, UNITA immediately went back in and took them back. Similarly, within months after EO and the FAA forced a ceasefire and coerced UNITA to the Lusaka peace accords, fighting broke out again—this time the heaviest of the entire civil war.

Measuring effectiveness in the short term is less meaningful if the claimed effectiveness does nothing in the long term toward stability and peace. EO’s contract may have been to bring UNITA to the bargaining table, but without any communication of intent or coordination with the UN or regional or major powers, efforts toward peace were ineffective.

f. Speed and Flexibility

- Pro

EO’s initial force in Angola was quite small. A contingent of around thirty soldiers was deployed to retake the Soyo oil fields from UNITA and place them back under control of the oil companies that owned the rights and the equipment. Their quick success earned them credibility with the FAA and the MPLA and soon they were hired by the government to train the FAA in fighting against UNITA. Very quickly this relationship changed from one of training to one of fighting alongside the FAA. EO was able to rapidly deploy around five-hundred operators to Angola in order to begin

⁵⁹⁰ Singer, *Corporate Warriors*, 110.

⁵⁹¹ William Reno, “The Politics of Insurgency in Collapsing States,” *Development and Change* 33, no. 4 (2002): 837.

executing their plan. Within months of being hired, EO, alongside the FAA, was able to rout UNITA from key cities, as well as oil and diamond fields, removing a vital source of income to UNITA and returning it to the MPLA government.

EO's ability to rapidly deploy effective combat-ready operators, as well as the necessary logistics and equipment in protecting a recognized government did not go unnoticed by other fragile countries seeking protection from rebel elements or factions. It was these initial successes by EO and subsequently other private companies that helped launch the explosion of growth of the international private security industry.

- Con

There were no significant disadvantages to the speed and flexibility of EO's execution of their contract in Angola. The only criticism with their speed was that their actions disallowed for any sort of resolution to the conflict through peaceful means, thereby preventing anything but coerced consent on the part of UNITA. A fundamental feature of peace negotiations is voluntary consent and compromise. This is not to say that the outcome would have been different had EO taken longer to accomplish their aims. It is only to say that the means by which "peace" had been achieved at the Lusaka Peace Accords was through force. As soon as EO left the country as demanded by Savimbi as part of the agreement, UNITA renewed its attacks against FAA forces and fighting resumed. The newly deployed UN forces were unable to do much to secure peace.

g. Public Relations

- Pro

Public relations has been and remains a challenging area for PSCs. PSCs do not automatically carry legitimacy with them wherever they go as the UN does (at least to a certain extent).⁵⁹² PSCs have to earn legitimacy through cost-efficient and

⁵⁹² UN legitimacy comes from the fact that 193 member states have agreed to common principles which aim to promote global peace and security.

effective action that protects lives; not only do they have to sustain this behavior, but they have to do it each time they are engaged somewhere new. Because PSCs have consistently been referred to as mercenaries, a generally negative moniker that is technically incorrect, they have had to work to improve their image through involvement in humanitarian efforts and positive media campaigns. One way PSCs have found to improve their image is through trade associations such as the ISOA. Continually working to distance themselves from mercenaries, ISOA claims that “[a]ll of our members use ISOA to network, identify business trends and areas, commit to high standards of conduct and accountability (via the ISOA Code of Conduct), and perform outreach to stakeholders with a wider industry voice.”⁵⁹³

EO did not have a trade organization or effective public relations team when they engaged with the MPLA. However, time was on EO’s side. The world had never seen an organization like EO—a modern-day corporation hired by a legitimate government using military force alongside the state’s army. In Machiavelli’s day, these would have been the *Conditierri*, a true mercenary force, out for hire to the highest bidder, without corporate guidelines and without shareholders. Unsurprisingly, Machiavelli found mercenaries to be “useless and dangerous,” adding that “[a]ny man who founds his state on mercenaries can never be safe or secure, because they are disunited, ambitious, undisciplined, and untrustworthy—bold fellows among their friends but cowardly in the face of the enemy; they have no fear of God, nor loyalty to men.”⁵⁹⁴ EO transitioned so quickly from being a training partner to the FAA to being a combat partner battling UNITA, that the world did not have time to see what was happening until EO and the FAA achieved success in liberating mining areas, oil fields, and cities. By the time EO and the FAA brought UNITA to the bargaining table, EO was being praised by the MPLA for their quick and efficient work. It was this efficiency and effectiveness that got EO noticed by a new government, the NPRC in Sierra Leone, who was battling a

⁵⁹³ Vogel.

⁵⁹⁴ Niccolò Machiavelli and Peter E. Bondanella, *The prince*, Oxford world’s classics (Oxford ; New York: Oxford University Press, 2005), Ch. XII.

different rebel element, the RUF. The positive public relations for EO in Angola was its swift and effective action against a recognized enemy of the government.

- Con

EO conducted military training and combat operations, not peacekeeping. It could be argued that EO conducted peace enforcement, but it is an incorrect comparison to place direct costs of EO and UN operations side-by-side, citing effectiveness of a specific mission the UN was not mandated to conduct. The UN was not conducting peace enforcement, they were not fighting UNITA soldiers, and they were not providing training or weapons to the FAA. The UN was still basing operations off of outdated concepts that were effective during the Cold War. Consent, impartiality, and non-use of force were all still important features of successful peacekeeping; however, these were not features that were effective in Angola because there was no fundamental agreement between parties to end the conflict—neither wanted peace unless on their own terms. Compromise was at the end of a rifle instead of through shared goals of peace and stability.

If PSCs like EO are to be used as “transitional” organizations, there has to be something to transition to. Without credible commitments from the UN, other IOs, regional organizations, NGOs, and local political leaders, the underlying causes are not resolved and peace is only temporary. In the case of EO in Angola, EO’s singular focus on winning and carrying out a narrow contract was only one piece of a complex puzzle. Following EO’s departure (and the arrival of an American advisory firm, MPRI) in 1995, it still took seven more years and the death of UNITA’s leader Dr. Jonas Savimbi, to bring tenuous peace. Despite huge cost, the UN’s inconsistent and meager efforts were not enough to bring peace to Angola. Though he credited his company for bringing the two factions to peace accords, Barlow himself admitted, “...there can be no peacekeeping if there is no peace.”⁵⁹⁵

⁵⁹⁵ Barlow, *Executive Outcomes: Against All Odds*: 307.

5. Summary of Case and Conclusion

The PSC, Executive Outcomes, accomplished its contracted mission in Angola with effectiveness, efficiency, and a great deal of success. But did it improve human security in Angola? The answer is no. Did EO end the “scourge of war” in Angola? No. Did the UN do any of these things in Angola? The answer is also no. Angola was a failed peace operation. Although EO did secure the oil and diamond fields and, alongside the FAA, did defeat UNITA, reducing their capacity to operate, and did bring the parties to the bargaining table, the peace secured was unsustainable. The reasons for this are numerous, to include the commonly cited reasons for peacekeeping failure: lack of political will; lack of consent; no *credible* agreements with international support for peace implementation;⁵⁹⁶ questionable “impartiality”;⁵⁹⁷ no resolution of the underlying conflict; and certainly no “limitation of armed conflict.”⁵⁹⁸ Additionally, U.S. post Cold-war involvement continued to keep UNITA supplied with arms and resources, prolonging the conflict.⁵⁹⁹ The thirty-year conflict in Angola demonstrates that great power influence and international involvement (or lack thereof) can play a major role in the peace process.

As Sean Cleary writes, “There is no doubt that EO’s engagement by the FAA in 1993 contributed to the prolongation of the war—greatly worsening the suffering by Angola’s civilian population.”⁶⁰⁰ PSCs must be able to do more than stop violence and bring parties to the bargaining table. For effective UN utilization, they must be able to support the UN’s mission in the long-term through coordination, cooperation, and possibly even collaboration (the three Cs) where possible. This sort of engagement will help to ensure the continued protection of civilians remains a priority and human security

⁵⁹⁶ Walter, “Designing Transitions from Civil War,” 129.

⁵⁹⁷ Secretariat, “Peacekeeping Operations: Capstone Doctrine.” Numerous articles cite that the UN was influenced by great power politics and showed partiality by *not* acting when they should have done so to stop violence or acts by spoilers.

⁵⁹⁸ Diehl, *International Peacekeeping*: 33–40.

⁵⁹⁹ Cleary, “Angola-PMC Involvement,” 145–148.

⁶⁰⁰ *Ibid.*

is protected. Clear contracts, contract enforcement, and the three Cs (above) can help to guarantee that the work of both the UN and PSCs “will be more effective when its work is done in the context of broader organizational integration.”⁶⁰¹

Without international involvement, political will, and a transition strategy, temporary (and coerced) stops to violence only serve to foment further and increased violence in the long-term. A PSC can be legitimate, accountable, efficient, effective, and well-controlled by a recognized government and still utterly fail to bring peace. Success depends on proper integration, communication, and interrelationships between all parties involved, including the international community, local politicians and leaders, NGOs, private actors, military and police. As the UN has shifted to calling all peace operations essentially “peacebuilding,”⁶⁰² there is need for integrated involvement during every stage of peacebuilding from initial intervention to DDR and SSR measures.

B. SIERRA LEONE

*What difference does it make if a hundred thousand rifles fire in Africa?
Europe does not hear them.*

King Louis-Philippe of France speaking at the authorization of the formation of the French Foreign Legion on 9 March 1831⁶⁰³

1. Historical Summary

The brutal civil war in Sierra Leone had been going on for four years before the new dictator, Captain Valentine Strasser, decided to bring in a private security company. Only 25 years old in 1992 when he took the presidency of Sierra Leone by military force,

⁶⁰¹ Nicholas Dew and Ira Lewis, “The Evolving Private Military Sector: Toward a Framework for Effective DoD Contracting” (Naval Postgraduate School, 10 February 2009), 3.

⁶⁰² “Everything the UN does is peacebuilding.” Smith, “Interview with Adam Smith, Researcher, International Peace Institute.”

⁶⁰³ King Louis-Philippe of France speaking at the authorization of the formation of the French Foreign Legion on 9 March 1831. Cited in David J. Francis, “Mercenary Intervention in Sierra Leone: Providing National Security or International Exploitation?,” *Third World Quarterly* 20, no. 2 (April, 1999).

he was already paranoid about the possibility that he himself would be overthrown, either by the Revolutionary United Front (RUF), or his own soldiers. His insecurity did not end there; he also knew that international military support was unlikely—because Sierra Leone was a former British colony, Strasser’s predecessor, Joseph Momoh, had requested military assistance from the British government in 1991 and was turned down.⁶⁰⁴ In 1992, just after his coup d’état which removed Momoh from power and while lounging in the State House, Strasser asked, “A wan know if America go recognise we gobment?”⁶⁰⁵ This was an important question since it was commonly believed in Africa that Western governments and international financial institutions privately approved of mercenary organizations that could overthrow governments in order to pave the way for safe investment. Mercenary armies were the proxies by which Western nations could do their “dirty work” without getting their own hands dirty through direct intervention.⁶⁰⁶

Strasser’s government was in a sense “legitimized” by U.S. acceptance of his coup that overthrew Momoh. The U.S. reasoning at the time was that “in general [the U.S.] did not acknowledge regimes installed by force but, in this instance, because the previous government had also not been democratically elected and considering the dire condition of the country, it was prepared to make an exception.”⁶⁰⁷ With his position relatively secure with the West, Strasser focused on the incursion of RUF rebels, many of whom were coming into Sierra Leone from Charles Taylor’s Liberia. The RUF was led by a former corporal in the Sierra Leone Army (SLA), Foday Sankoh, and was tacitly supported by Charles Taylor, the leader of the National Patriotic Front of Liberia, in order to secure diamonds and other resources which Taylor could use to buy weapons for his

⁶⁰⁴ Kinsey, *Corporate Soldiers And International Security*: 63.

⁶⁰⁵ Simon Akam, “The Vagabond King,” *New Statesman - Britain’s Current Affairs & Politics Magazine*(2012), <http://www.newstatesman.com/africa/2012/01/sierra-leone-strasser-war>.

⁶⁰⁶ Francis, “Mercenary Intervention in Sierra Leone,” 323.

⁶⁰⁷ Akam, “The Vagabond King.” 4.

own insurgency.⁶⁰⁸ In 1992, before Strasser's coup, the Republic of Sierra Leone Military Forces (RSLMF) had already been fighting the RUF unsuccessfully. Part of Strasser's motivation to take over the government was to improve RSLMF capability against the rebel force through better government training and support of troops.⁶⁰⁹ However, Strasser's vision was never realized, and as time went on, the RUF made increasingly deeper penetration into Sierra Leone. By May 1995 they were less than 20 miles away from the capitol and poised to invade Freetown.⁶¹⁰ By this time, most foreign nationals had evacuated the city and the government had lost control of the diamond mining areas in the eastern Kono district, as well as the Sierra Rutile titanium-dioxide mine and the Sierra Leone Ore and Metal Company's (SIEROMCO) bauxite mine.⁶¹¹ At this point, nearly two-thirds of the country's export earnings were in the hands of the RUF.⁶¹²

RSLMF soldiers were ineffective, poorly trained, and corrupt.⁶¹³ The majority of the army had been hastily recruited to fight the RUF, but because the budget was so limited, many soldiers had to resort to banditry for food or pay. These soldiers were often referred to as "sobels," soldiers by day and rebels by night.⁶¹⁴ There are also reports that RSLMF conscripts received daily rations of rum and "jamba" (marijuana), affecting their

⁶⁰⁸ Ibrahim Abdullah, "Bush Path to Destruction: The Origin and Character of the Revolutionary United Front/Sierra Leone," *The Journal of Modern African Studies* 36, no. 2 (June 1998); William Reno, "Persistent Insurgencies and Warlords: Who Is Nasty, Who Is Nice, and Why?," in *Ungoverned Spaces*, ed. Anne L. Clunan and Harold A. Trinkunas (Stanford, CA: Stanford University Press, 2010), 62; Al J. Venter, "Current Conflicts, Sierra Leone's Mercenary War Battle for the Diamond Fields," *Jane's International Defence Review* 028, no. 011 (1 November 1995).

⁶⁰⁹ William Reno, *Corruption and State Politics In Sierra Leone*, African studies series (Cambridge England ; New York: Cambridge University Press, 1995), 174.

⁶¹⁰ Shearer and International Institute for Strategic Studies., *Private armies and military intervention*: 48–49.

⁶¹¹ Ibid; Reno, *Warlord Politics And African States*: 126.

⁶¹² Shearer and International Institute for Strategic Studies., *Private armies and military intervention*.

⁶¹³ Howe, "Private Security Forces and African Stability: The Case of Executive Outcomes."; Venter, *War Dog : Fighting Other People's Wars : The Modern Mercenary In Combat*, 445.

⁶¹⁴ A commonly used phrase found ubiquitously in literature on Africa, but frequently in regards to Sierra Leone soldiers who were not receiving pay and often covertly assisted the RUF, *see for example Keen, Conflict & collusion in Sierra Leone; Howe, Ambiguous Order*.

fighting performance.⁶¹⁵ Poorly paid and not well taken care of by the government, their commitment to fighting the RUF rebels only went so far and many revolted or defected. In contrast, the RUF used terror as a tool; they regularly cut off ears, limbs, genitals, gouged out eyes, or slashed the tendons in the ankles or necks (causing victims to be unable to hold their heads up) of their enemies, or even of their own soldiers as punishment for desertion.⁶¹⁶ “Many of the victims have been eaten.”⁶¹⁷

Out of fear and in the face of this brutality, the RSLMF soldiers would often just turn and run even though the RSLMF outnumbered the RUF by almost four to one.⁶¹⁸ To get an idea of the numbers, the RSLMF counted approximately 13,000 soldiers while it is estimated that the RUF had around 3000 guerrillas.⁶¹⁹ The RUF used their numbers very wisely, however, often through quick attack and retreat ambushes, using maximum brutality to inflict fear. As a result, the majority of RSLMF soldiers who were already not getting paid very much (if at all in some cases), saw no benefit in exposing themselves to risk of RUF attack and atrocities. Beaten back to Freetown and city centers, government forces were ineffectual and seemingly preparing for the worst.

Toward the end of 1994 and in the face of defeat, Strasser’s National Provisional Ruling Council (NPRC) hired Gurkha Security Group (GSG) to train the RSLMF and assist in pushing back the rebel RUF. GSG’s commander, an American, Colonel Robert MacKenzie, was a former Vietnam veteran and Rhodesian Special Air Service (SAS) officer. The majority of his contingent was made up of Nepalese ex-British army troops. Upon their arrival, MacKenzie was told he would have three weeks to prepare the RSLMF troops; after three days of evaluation he informed the NPRC that he would need

⁶¹⁵ Venter, *War Dog : Fighting Other People’s Wars : The Modern Mercenary In Combat*, 449.

⁶¹⁶ Howe, “Private Security Forces and African Stability: The Case of Executive Outcomes,” 313.

⁶¹⁷ Venter, “Current Conflicts, Sierra Leone’s Mercenary War Battle for the Diamond Fields,” 4.

⁶¹⁸ Venter, *War Dog : Fighting Other People’s Wars : The Modern Mercenary In Combat*, 450.

⁶¹⁹ Troop estimates for both sides vary widely, but on average, the ratio is estimated at 4:1 in favor of the RSLMF; however, it is commonly acknowledged that at least two-thirds of the RSLMF troops were extremely poorly trained and that most were terrified of the RUF fighters. By 1997, the UN estimated that there were approximately 5,000 armed and 5,000 non-armed RUF combatants, *see Annan, “Report of the UNSG on Sierra Leone,”* 4.

six months—after a conference with senior commanders, he was told he had three weeks.⁶²⁰ MacKenzie’s wife Sibyl, who accompanied him to Sierra Leone, wrote that the RSLMF troops “couldn’t walk quietly through the bush, set up or maintain an observation post, lie in ambush or even conduct small group discipline,” and that many would wear their civilian clothes under their uniforms so that at the first signs of rebels approaching they could “shuck their uniforms, hurl their weapons into the bush and sneak back into the camp as civilians.”⁶²¹ Within a few months of their hire, in February 1995, MacKenzie was killed in an RUF ambush; questions remain over whether he was betrayed by RSLMF forces he was meant to be assisting.⁶²² Subsequent reports, corroborated by nuns who were held hostage in the camp where MacKenzie was taken, state that he was tortured by children, then his heart was cut out and eaten, and finally the rest of him was dismembered, cooked, and eaten.⁶²³ More than 21 GSG soldiers and RSLMF infantry were killed in the ambush; none of the bodies were ever recovered.⁶²⁴ This news only increased fear of the RUF in both RSLMF troops and GSG “trainers.” GSG quickly fell apart. “At the first shot—almost as if it had been rehearsed—the African troops panicked, discarding their weapons. The Gurkhas followed in their tracks, but at least they held on to their arms.”⁶²⁵

GSG was brought in to train Sierra Leone’s officer corps “...in the very basics of protecting their civilian population and economic assets from the depredations of armed bandits.” As GSG’s accountant, Nick Bell, pointed out, they were “...not in Sierra Leone

⁶²⁰ Venter, *War Dog : Fighting Other People’s Wars : The Modern Mercenary In Combat*, 448.

⁶²¹ *Ibid.*, 453.

⁶²² Akam, “The Vagabond King.” 6.

⁶²³ Jakkie Cilliers, Peggy Mason, and Institute for Security Studies (South Africa), *Peace, Profit Or Plunder? : The Privatisation Of Security In War-Torn African Societies* (Halfway House: Institute for Security Studies, 1999); Venter, “Current Conflicts, Sierra Leone’s Mercenary War Battle for the Diamond Fields.”

⁶²⁴ Alex Vines, “Gurkhas and the Private Security Business in Africa,” in *Peace, Profit or Plunder?: The Privatisation of Security in War-Torn African Societies*, ed. Cilliers and Peggy Mason Jakkie (Pretoria: Halfway House: Institute for Security Studies, 1999), 130–31.

⁶²⁵ Venter, *War dog : fighting other people’s wars : the modern mercenary in combat*: 457.

in an offensive role.” If the RSLMF was not prepared to take on the RUF themselves and training was not enough to defeat them, a new plan was necessary if Strasser’s tenuous regime was to survive the RUF.

In March, after the GSG debacle, Executive Outcomes (EO) was contacted by the Strasser government to help train RSLMF troops to better enable them to beat back the RUF advances. EO’s recent success in Angola brought the rebel National Union for the Total Independence of Angola (UNITA) to the bargaining table with the recognized government of Angola, the People’s Movement for the Liberation of Angola (MPLA), which led to the Lusaka Accords. EO’s effectiveness in “providing peacekeeping services...for recognized governments” brought a good deal of credit to EO.⁶²⁶ Moreover, the fact that UNITA saw EO as a threat and stipulated their departure from Angola as part of the agreement only bolstered EO’s reputation as a PMC that could bring parties to the negotiation table.⁶²⁷

With the NPRC facing certain defeat at the hands of the RUF, Strasser’s government turned to EO, the company that had decisively persuaded UNITA to seek peace with the MPLA.⁶²⁸ Because most of its force was relatively close by, and because their contract with the Angolan government had been concluded with the Lusaka Accords, EO was able to quickly transition from their mission in Angola to assist in Sierra Leone. EO’s contracted objectives were: 1) Secure Freetown and evict the RUF from the peripheral districts; 2) regain control of critical resources, in particular, the Rutile mine and diamond fields; 3) destroy RUF headquarters; and 4) clear remaining

⁶²⁶ Francis, “Mercenary Intervention in Sierra Leone,” 326. Francis notes that “recognized government” does not necessarily mean democratic, but recognized by Western powers. See also Juan Carlos Zarate, “The Emergence of a New Dog of War: Private International Security Companies, International Law, and the New World Disorder,” *Stanford Journal of International Law* 34, no. 75 (Winter, 1998): 9.

⁶²⁷ Shearer and International Institute for Strategic Studies., *Private armies and military intervention*: 48.

⁶²⁸ Fitzsimmons, “Adapt or Die: The Cultural Foundations of Military Performance in the Sierra Leonean Civil War,” 3–4.

areas of RUF occupation.⁶²⁹ By May, EO had 80 operatives on the ground and began operations against the RUF. One of the first things EO did when they got to Sierra Leone was enlist the support of the “hunters” or Kamajor tribesmen,⁶³⁰ a group that had also been terrorized by the RUF. Along with the Kamajors and the RSLMF, EO executed its plan swiftly, within the first couple of months pushing the RUF away from Freetown and the suburbs. In just three days in June, EO and the RSLMF secured the Koidu diamond fields. By August, 1995 they retook the Kono district, and by the end of January 1996 they had recaptured the rutile (titanium dioxide) and bauxite mines belonging to Sierra Rutile and the Sierra Leone Ore and Metal Company (SIEROMCO).⁶³¹ After the diamond fields, Kono district, and ore mines were secure, the government was able to regain revenue allowing it to buy more political support through cash and distributions of mining concessions. Reciprocally, because they no longer controlled the diamond fields, the RUF lost a major portion of its funding for weapons, ammunition, and food. Because ammunition and small arms were in such short supply, many RUF soldiers were armed only with knives or machetes. In one attack by the RUF on a convoy, “...of the attacking rebel force of about 40 men, only half had automatic weapons. Some of them were down to two rounds of ammunition. Two-thirds of the fifteen civilians who died had been stabbed to death.”⁶³² Although food remained a problem for the RUF, numerous reports state that RUF rebels had no qualms about eating their victims.

In February and March of 1996, Sierra Leone had experienced its first stability since 1991, allowing democratic elections to take place. By mid-1996 Sankoh and his RUF reluctantly agreed to peace talks, and on 30 November the RUF signed the Abidjan Peace Accord with the newly elected government of President Ahmed Tejan Kabbah.⁶³³

⁶²⁹ Interview with a former EO officer, cited in Shearer and International Institute for Strategic Studies., *Private armies and military intervention*: 49. See also Francis, “Mercenary Intervention in Sierra Leone,” 327. Although these functions may almost seem like warlord functions, they are very similar to peace enforcement measures being taken today by the French in Mali.

⁶³⁰ Kamajor means “hunter” in the local Mende language. The Kamajors knew the jungle and landscape well and became excellent guides in rooting out the RUF.

⁶³¹ Keen, *Conflict & collusion in Sierra Leone*: 151–52.

⁶³² Venter, “Current Conflicts, Sierra Leone’s Mercenary War Battle for the Diamond Fields.”

⁶³³ Francis, “Mercenary Intervention in Sierra Leone,” 327.

Many in country and outside Sierra Leone lauded EO's success in bringing about peace, if only temporarily. However, one of the conditions of the Abidjan agreement, similar to the Lusaka agreement in Angola, was that EO leave the country. The Kabbah government agreed to the withdrawal of EO based upon promises of a UN peacekeeping troop deployment. Before leaving, EO offered Kabbah a contract that would allow them to stay in country until the UN arrived. Whether through confidence in the regional peacekeeping organization, ECOMOG, or deterred by EO's cost, Kabbah never agreed to renew EO's contract.⁶³⁴ Without the materialization of the UN troops on the horizon, and no one but their own ill-prepared troops to defend the existing government, EO's officers predicted that the country would fall to the RUF rebels within one hundred days. Ninety-five days after EO's departure, a coup removed Kabbah from power.

Between 1995 and 1996, EO had used between 250 and 350 personnel to conduct their mission; RUF rebel numbers ranged from 3000–4000 but were continually maintained at that level through impressing child soldiers and captives into service.⁶³⁵ As far as casualty comparisons go, in a year and a half of combat, EO had experienced only two casualties; it is estimated that RUF casualties were in the thousands.⁶³⁶ Regarding mission success, although EO had successfully fulfilled the requirements of their contract, they were reviled in the press and the UN held them in low regard. "Despite us having cleared out a brutal group of cannibalistic murderers, the media, particularly in South Africa, were bitterly angry at this latest blow to the rebels. The UN was equally concerned. Condemnation towards us grew—along with their hopes that we would be swiftly evicted from Sierra Leone by the UN or some other force."⁶³⁷

⁶³⁴ Singer, *Corporate Warriors*: 114.

⁶³⁵ See Howe, "Private Security Forces and African Stability: The Case of Executive Outcomes," 314, f/n 24; Francis, "Mercenary Intervention in Sierra Leone," 330; Fitzsimmons, "Adapt or Die: The Cultural Foundations of Military Performance in the Sierra Leonean Civil War," 4; Keen, *Conflict & collusion in Sierra Leone*: 152.

⁶³⁶ Howe, "Private Security Forces and African Stability: The Case of Executive Outcomes," 314. Accurate data on number of RUF deaths does not exist. Many were children impressed into RUF service, many were never accounted for since there were no enlistment roles or service lists.

⁶³⁷ Barlow, *Executive Outcomes: against all odds*: 360.

Three months after the peace accords were signed and following the coup that overthrew the democratically elected President Kabbah, the RUF regained all the ground that EO had made, plus they invaded Freetown and terrorized the residents, pillaging and looting in an operation they called “Operation Pay Yourself” since they were not receiving funding from the RUF.⁶³⁸ In the midst of the mass killing, and in fear for their own lives, ECOMOG retreated to their base camps and UN and government personnel took refuge in the protection of private security companies such as LifeGuard, which was also an associate of both EO and Sandline International.⁶³⁹ It was at this time that the deposed Kabbah contacted Sandline for assistance.

Sandline was a private military company very similar in structure to EO, except that it was London-based and not South African-based. LtCol Tim Spicer, the head of Sandline, and his operators began by immediately gathering intelligence and enlisting the support of the Kamajors, one of the groups targeted by the RUF and eager to see Kabbah restored to power. Sandline also served as tactical advisors to the RSLMF and ECOMOG, the primarily Nigerian-led regional organization, who took the offensive in Freetown. Sandline’s mission was nearly identical to that of EO’s, that is, secure Freetown, regain control of vital resources, and destroy RUF attack bases. Through Sandline’s coordination, the RUF were quickly driven from the city of Freetown and back into the bush. Within a few months, and after rallying ECOMOG and the Kamajors, Sandline aided in the reinstatement of Kabbah as rightfully elected President and pushed the rebels to the negotiating table to sign another treaty between the RUF and the Kabbah government—this time it was the Lomé Peace Accords. The agreement was very similar to the Abidjan Accord, in that one of the articles of the agreement, article 17, stipulated that “[a]ll mercenaries, in any guise, shall be withdrawn from Sierra Leone immediately upon the signing of the present Agreement.”⁶⁴⁰ As could have been predicted, with Sandline

⁶³⁸ Singer, *Corporate Warriors*: 114.

⁶³⁹ *Ibid.*, 11, 114, 58.

⁶⁴⁰ The Government of the Republic of Sierra Leone and The Revolutionary United Front of Sierra Leone (RUF/SL), “Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone,” ed. ECOWAS (Lomé, Togo 7 July 1999), article XVIII.

out of the country and UN peacekeepers nowhere on the horizon, within months, Freetown was under siege yet again by the RUF. ECOMOG was still on station after Sandline departed the country in accordance with the Lomé Accords. However, ECOMOG forces were not enough to prevent a coup and stop the RUF and newly forming gangs calling themselves the “West Side Boys” as they resumed terrorizing the population, murdering, raping, hacking limbs, looting, and regaining territory and resources that would only serve to refuel their rebellion.⁶⁴¹ Private companies brought security, but it was not lasting.

The UN had sent observers and helped arrange elections before the Abidjan Accords in November, 1996. EO, working with the RSLMF and the Kamajors, had brought the RUF to the treaty table. But following the signing of the accords, without the promised UN peacekeeping troops on station, and as Kabbah himself put it, “...with this outfit gone [Executive Outcomes], there remained no credible and dependable military force to oppose and resist their [RUF’s] advance.”⁶⁴² The UN claimed that it needed \$47 million in order to deploy troops, but they were unable to get the necessary donations from the international community. ECOMOG deployed, but UN peacekeepers did not, and ECOMOG alone was not prepared to take on what came next. The government was overthrown in a military coup by Major Johnny Koroma in collusion with the RUF in May, 1997. Koroma set up what he called the Armed Forces Revolutionary Council (AFRC), which was controlled by the Sierra Leone Army and was combined with RUF forces; factions of these groups became the infamous West Side Boys. Consequently, these groups promptly resumed attacks in Freetown and in the mining districts throughout Sierra Leone.

The second time the RUF was brought to the bargaining table it was a different private military company responsible for getting them there. Sandline International coordinated efforts between the RSLMF, the Kamajors, and ECOMOG to create the

⁶⁴¹ Barlow, *Executive Outcomes: against all odds*: 389.

⁶⁴² President Kabbah, in his statement to the Sierra Leone Truth and Reconciliation Commission on 5 August 2003. Cited in *Ibid.*, 393–94.

conditions necessary for a second “peace.” After the Lomé Accords were signed in July 1999, the UN again agreed to send in peacekeepers to ensure the safety of Sierra Leone’s government and people. However, once again, the UN did not get the necessary funding to deploy troops in time to prevent the RUF from recommencing violence and ultimately retaking parts of Freetown and mining areas once again.

Eventually the UN was able to begin to deploy the 13,000 troops authorized by the Security Council. Unfortunately, they did not accomplish much in the way of protection until much later, and only with much more support. This only further supports the pro-side of using PSCs, since in contrast with UN peacekeepers, PSCs acted more quickly and efficiently at accomplishing their objectives. These failures of the UN to protect Sierra Leone after two separate peace accords were embarrassments to the UN. An article in *The Philadelphia Inquirer* brought negative attention to the UN in a story entitled “In Sierra Leone, hard lessons for peacekeepers,” in which some of the following criticisms were leveled:

Slow to deploy and unprepared for hostile forces, some of the first UN troops to arrive in January were disarmed by battle-hardened Sierra Leonean rebels. In May more than 500 peacekeepers were taken hostage and the UN sparked panic when it erroneously announced that rampaging rebels were on the outskirts of Freetown.

The United Nations moved into one of the city’s largest hotels and hundreds of new white UN sports utility vehicles fill the parking lots of Freetown’s beachfront bars and restaurants. ‘My 14-year-old son talks about UNAMSILing,’ said Zainab Hawa Bangura, head of Freetown’s Campaign for Good Governance, a leading civic group. ‘That means getting drunk, going to parties. UNAMSIL has the best cars. They have a lot of money. They can afford the best girls. That’s what UNAMSIL represents.’

Annan has asked the Security Council to increase the number of troops to 20,500 from the 13,000 authorized now. The new request would be more than triple the 60,000 called for 13 months ago. The enlarged force would cost \$780 million a year, making it the most expensive UN intervention.

Annan, in a July postmortem, said the mission suffered from poor communication, inadequate logistics, bad planning and no support.⁶⁴³

Constance Freeman, an Africa expert at the Centre for Strategic and International studies, is cited as stating, “I’m not sure the international community is in a position to say they can’t [hire mercenaries] if it has nothing to offer as an alternative.”⁶⁴⁴ At the end of Elizabeth Rubin’s article in the *New York Times*, she writes: “In the future, perhaps, the fear that more private military armies could be loosed upon the world will inspire the major powers to invent a more palatable solution. Until then, given the horror in Sierra Leone today, and the fact that no ‘legitimate’ knight in shining armour is on the horizon to replace the Nigerians, is it wrong to let the Sierra Leoneans keep their limbs by keeping their mercenaries?”⁶⁴⁵

It was not until 2002 that a UN force, strongly bolstered by British support, a revitalized Sierra Leone Army, and assistance from the Guinean army could suppress the RUF enough to allow elections to once again be held, years after EO and Sandline had both already brought the RUF to the peace table twice.

2. Role of PSCs

*Our company’s goal in Sierra Leone as it was in Angola is to give support to a country moving towards democracy. No one can dispute that we have been a stabilizing factor in Africa.*⁶⁴⁶

Eeben Barlow, President of Executive Outcomes

⁶⁴³ Andrew Maykuth, “In Sierra Leone: Hard Lessons for Peacekeepers,” *Philadelphia Inquirer* 15 November 2000.

⁶⁴⁴ Constance Freeman cited in Elizabeth Rubin, “Saving Sierra Leone At a Price,” *New York Times* 4 Feb. 1999.

⁶⁴⁵ Ibid.

⁶⁴⁶ Eeben Barlow, Executive Outcomes’ Executive Director, in Jim Hooper, “Sierra Leone: The War Continues,” *Jane’s Intelligence Review* (January 1996): 8. Cited in William Reno, “African Weak States and Commercial Alliances,” *African Affairs* 96(1997).

*Smack ‘em! Smack ‘em again and then hit the fuckers once more, just to be sure...that’s the only way to do it!*⁶⁴⁷

Neall Ellis, Mi-17 pilot working for Executive Outcomes explaining his approach to warfare in Sierra Leone.

The role of any force that was to work with the government of Sierra Leone to stop the RUF was simple in its initial mandate: create security for the government of Sierra Leone and its citizens. After stopping the atrocities, focus could be placed on democracy and aspects of governance, economy, and development. Carrying out the mandate proved to be much more difficult than knowing exactly what needed to be done. Sierra Leone had appealed to the international community for assistance in bringing the RUF to negotiations and end the terror campaign. However, the UN sent only an exploratory detail which did not serve to help the RSLMF protect the population from the increasingly brutal RUF attacks. The UN was still dealing with the humiliation of a number of recent debacles, including: the failed effort in Somalia where dead American soldiers were dragged through the streets of Mogadishu; the “impunity with which the Bosnian Serb Army had taken UN peacekeepers hostage and used them as human shields”; and the murdered Belgian peacekeepers in Rwanda, another UN embarrassment that was ongoing.⁶⁴⁸

The growing chaos in Sierra Leone was an issue that the UN and Western states were not prepared to support with troops. In desperation, Valentine Strasser, the young dictator of Sierra Leone, first called Gurkha Security Guards (GSG) to help train the RSLMF to fight the RUF. In an early training mission, the GSG commander, Bob MacKenzie, was killed by RUF forces and dragged into the jungle along with 17 other GSG employees. This was, in effect, a mission kill for GSG since following this event they refused to venture out into the jungle to train or assist RSLMF forces. Desperate to stop the RUF, Strasser sought out EO, a company that GSG’s head claimed was hired

⁶⁴⁷ Neall Ellis, Mi-17 pilot working for EO explaining his approach to warfare in Sierra Leone. Venter, *War dog : fighting other people’s wars : the modern mercenary in combat*: 58.

⁶⁴⁸ Barlow, *Executive Outcomes: against all odds*: 318.

because not only were they less expensive, they were “prepared to undertake offensive action,” something GSG was not prepared to do.⁶⁴⁹

Once EO arrived in Sierra Leone with an initial team of 80 operators, they got straight to work training the RSLMF, forming alliances with the Kamajors, and establishing their mission and plan of attack. Based upon a strong foundation of training received in the South African Defense Force (SADF) and clearly understood tactics, techniques, and procedures (TTPs), their military tactics were successful against the similarly armed but far superior in numbers RUF. Instead of sticking to protective security and training for defense against RUF attack and ambush, EO trained the RSLMF and the Kamajors to initiate attacks and follow-up with continued search-and-destroy action. This method of fighting was extremely effective against the RUF who were not used to being pursued into the jungle or hit at their deep-jungle bases.

Between 1995 and 1999 Sierra Leone hired three separate PMCs: GSG, EO, and Sandline International; all three are now defunct. GSG failed to attract any business after the company was effectively fired by Strasser in Sierra Leone.⁶⁵⁰ EO went out of business shortly after their business was concluded in Sierra Leone. Sandline shut its corporate “doors” in 2004:

Sandline International wishes to announce that the company is closing down its operations forthwith.

*The general lack of governmental support for Private Military Companies willing to help end armed conflicts in places like Africa, in the absence of effective international intervention, is the principal reason behind Sandline’s decision. Without such support the ability of Sandline (and other PMCs) to make a positive difference in countries where there is widespread brutality and even genocidal behaviour is irretrievably diminished.*⁶⁵¹

⁶⁴⁹ Vines, “Gurkhas and the Private Security Business in Africa,” 132.

⁶⁵⁰ Avant, *The market for force : the consequences of privatizing security*: 86.

⁶⁵¹ Sandline International, “Closure of Sandline’s Operations, Comment by Sandline International,” company statement, 16 April 2004, website, <http://www.sandline.com/site/>, accessed 26 February 2012.

Some argue that it was negative media attention that drove these companies to cease operations; others argue that it was the tightening of restrictions on private military companies that drove them out of business.⁶⁵² But the former owners of the now-closed companies disagree. In the midst of a great deal of controversy over the use of PMCs in African countries, Tim Spicer's given reason for closing Sandline was lack of governmental support; Eeben Barlow's reason for closing EO was "due to a difference in opinion amongst those to whom I had given the company."⁶⁵³ GSG claimed that the company was moving in a different direction, that of a charitable organization.⁶⁵⁴ In any event, for this case study, the roles each company played were critical to their evaluation as positive agents toward peace or negative ones which only prolonged conflict and violence.

Some of the questions that arise from this specific review are whether or not there was sufficient international buy-in to the activities of these companies in order for them to be successful at their version of "peacekeeping." In each instance where these PMCs were hired, the relations between these companies and Sierra Leone were without guidance or support from the international community. They informed the UN and their home offices of their activities, e.g., the FCO (Sandline) and South African government (EO), but in both cases where these companies brought the same parties in conflict to negotiations and ultimately peace accords, there was no sufficient follow-up by the international community to ensure the accords held. In both cases, EO and Sandline each suspected that without a military force to back up enforcement of the peace agreement, the country would return to a state of unrest. Consequently, both

⁶⁵² See for example, Africa, "Foreign Military Assistance Bill No. 54." Peter Singer also discusses reasons for PMCs ceasing operations, see Singer, *Corporate Warriors*: 117–18. Sarah Percy writes that their "disappearance...suggests that these companies were only marginally legitimate and were far from accepted actors on the international stage." Sarah Percy, "Morality and Regulation," in *From Mercenaries to Market: The Rise and Regulation of Private Military Companies*, ed. Simon Chesterman and Chia Lehnardt (Oxford: Oxford University Press, 2007), 14.

⁶⁵³ Barlow, *Executive Outcomes: against all odds*: 516.

⁶⁵⁴ Vines, "Gurkhas and the Private Security Business in Africa," 133–34.

companies offered to extend their contracts until UN or regional troops could arrive on station in sufficient numbers to maintain stability.⁶⁵⁵

What EO and Sandline both provided was a blend of skill in military intelligence, managing assets, communications, logistics, and tactics. They also had exceptional working relationships amongst everyone on their teams, and as was often the case, many of them had worked, trained, or fought together in previous operations or while on active duty. A strong ethos of looking out for one another and knowing how each other operates was developed over years together. Christopher Spearin argues in a recent article that this element of camaraderie and a legacy of working together, common to many PMCs through the nineties, no longer exists in present-day PSCs and that they could not produce the same results that EO or Sandline produced in Sierra Leone.⁶⁵⁶

As pointed out previously in this dissertation, the two PMCs with primary roles in the conflict in Sierra Leone, EO and Sandline, are now defunct. The fact that they were PMCs means that they conducted military training along with military operations alongside their clients. The fact that they were contracted by the state, they had the authorization and the rules of engagement (ROE) to kill enemy combatants harmful to the state. Their mission was to stabilize the country for peace, fulfill their contract and depart. Not unlike peace enforcement missions, once aggressors and those committing abuses were stopped, others representing the international community were to step in and complete the process. At least that is how the PMCs viewed their role.⁶⁵⁷ On the one hand, they can be commended for adhering to their contracts, especially since detractors have argued that “these companies are not interested in the speedy and successful

⁶⁵⁵ Barlow, *Executive Outcomes: against all odds*: 386; Spicer, *An Unorthodox Soldier*: 201–02, 32–34.

⁶⁵⁶ Spearin, “UN Peacekeeping and the International Private Military and Security Industry.”

⁶⁵⁷ There are numerous examples of PSCs justifying limited tactical or operational successes in the short-term with rhetoric that claims an expectation of UN or regional peacekeeping collaboration, cooperation, or follow-on. See Alexandra, Baker, and Caparini, *Private military and security companies : ethics, policies and civil-military relations*; Barlow, *Executive Outcomes: against all odds*; Spicer, *An Unorthodox Soldier*; Steven Brayton, “Outsourcing War: Mercenaries and the Privatization of Peacekeeping,” *Journal of International Affairs* 55, no. 2 (Spring 2002).

completion of their contracts, and may even possibly prolong violence...”⁶⁵⁸ On the other hand, if their intentions had been other than purely for monetary gain, there is no clear record that they did anything substantial to prevent the country from devolving into chaos upon their departure. Simply saying “we told you so” does nothing to encourage international participation, let alone create legitimacy, e.g. EO officers said that the Sierra Leone government would fall within 100 days of their departure.⁶⁵⁹ This sort of post-coup self-aggrandizement only bolsters arguments against the use of private companies since it portends a reliance on private services as a requirement to preserve public security.⁶⁶⁰

In any event, two out of the three PSCs hired by Sierra Leone fulfilled their contracts and performed the role they were hired to accomplish. This raises an important benefit to privatization that does not translate to international organizations in the same way: when GSG failed, market forces enabled Strasser’s government to hire another firm willing to take the job. In the case of international organizations like the UN, failure cannot be met with simply choosing another international organization that may be more effective—it is not an option.⁶⁶¹ The UN is forced to review and modify its mandate, troop numbers, policies, procedures, and operations—all things that take a good deal of time and require bureaucratic approval. Organizational structures like the UN’s have not been proven to be as flexible in responding to international crises for many reasons, including political will, member state agreement on action(s) to be taken, troop contributing countries, host nation approval of UN actions, etc.

⁶⁵⁸ Francis, “Mercenary Intervention in Sierra Leone,” 333.

⁶⁵⁹ Singer, *Corporate Warriors*: 114.

⁶⁶⁰ This also relates to economists’ arguments regarding asset specificity and another reason why privatization of violence may not be a good idea. See Williamson, “Public and Private Bureaucracies: A Transaction Cost Economics Perspective.”; Fredland, “Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies.”

⁶⁶¹ It is possible for specific peacekeepers to be spelled out in a memorandum of understanding or nations to request only specific peacekeepers, for example, Sudan purposely requested only African peacekeepers. However, the UN cannot order a nation or group of nations to serve as peacekeepers or change them out at will.

PSCs themselves admit that they lack the combat power for major intervention.⁶⁶² The PSCs that responded in Sierra Leone performed their role exceptionally well for what they were hired to do; it is not in dispute that they accomplished their contracted missions. What *is* in dispute are their methods of carrying out those tasks, their motivations for doing so, and their intentions, i.e., did these companies go to Sierra Leone with the intent to help Sierra Leone? To be clear, intentions and motives differ, in that motives are the underlying reason for acting and intentions are the purpose or objective of action.⁶⁶³ But if PSCs' were merely self-interested, they are not necessarily delegitimized. Self-interest plays a role in what Ian Hurd calls the "favorable-outcomes approach," whereby "states accept as legitimate those...institutions that generate outcomes from which the stand to benefit."⁶⁶⁴

Deane-Peter Baker and James Pattison, who write extensively on the moral implications of PSCs and humanitarian intervention, hold that although PSCs' underlying motives may be profit driven, "[a] strong system of contracts and oversight mechanisms might then be able to ensure that PMSCs have humanitarian intentions."⁶⁶⁵ EO and Sandline, both companies that were successful in Sierra Leone, claim to have had humanitarian intentions; both also state that although they wanted to help the legitimate government of Sierra Leone, they were not doing it for free. However, how can it be determined that they had humanitarian, and therefore moral, intentions? Baker and Pattison claim that the key determinant is effectiveness. Were these two companies effective in their humanitarian aims? In the case of Sierra Leone, this can be argued two ways: 1) EO and Sandline were effective—they stopped human rights abuses, atrocities, and war crimes during their tenure in country; or 2) they were ineffective—immediately after their departure, the country devolved into as serious a situation (or worse) than

⁶⁶² See for example, Spicer, *An Unorthodox Soldier*.

⁶⁶³ Deane-Peter Baker and James Pattison, "The Principled Case for Employing Private Military and Security Companies in Interventions for Human Rights Purposes," *Journal of Applied Philosophy* 29, no. 1 (2012): 4.

⁶⁶⁴ Hurd, *After Anarchy*: 67–68.

⁶⁶⁵ Pattison, "The Principled Case for PMSCs."

when they arrived—they merely delayed the horrors of the RUF, and as some argue, prolonged war beyond what its course would have been. In the end, I contend that the value of PSCs’ speed and efficiency could have enabled UN peacekeeping success and protected human security had the two worked together rather than distinctly separate. The pros PSCs offer outweigh the cons when properly utilized, integrated, and controlled.

3. Role of International Peacekeepers

Of the many attempts at peace in Sierra Leone, several were unsuccessful. “including the Abidjan cease-fire of 1996 with no peacekeepers present, and the Lomé agreement of 1999, when peacekeepers were deployed.”⁶⁶⁶ The conflict in Sierra Leone forced the UN to critically review its procedures for bringing peace to a country wracked by war. As Eric Berman and Melissa Labonte put it, “When Revolutionary United Front (RUF) rebels took more than 400 UN peacekeepers hostage in May 2000, not only that operation but also UN peacekeeping as a whole faced a critical choice: learn to use force effectively against those who violently disrupt the peace, or find another line of work.”⁶⁶⁷ A robust UN peacekeeping force willing to intervene in the interest of human security, following the UN’s responsibility to protect (R2P) guidelines, can negate the need for PSCs in any aspect of peacekeeping. However, this proposition takes a great deal for granted: that the political will to intervene will be there; that R2P tenets can be met (proven); and that a UN force will be willing to aggressively pursue and stop the perpetrators of R2P crimes.

Nearly a year after the Lomé Accords were signed, violence was still rampant throughout Sierra Leone. The British intervention in May 2000, Operation Palliser, officially purposed as a noncombatant evacuation, became much more than simply an evacuation and more of a “mixture of five imperatives: to protect British citizens; to avert

⁶⁶⁶ Fortna, *Does Peacekeeping Work?*, 14.

⁶⁶⁷ Labonte, “Sierra Leone,” 141.

a humanitarian crisis; to defend democracy; to live up to its stated foreign policy principles; and to support the UN operation.”⁶⁶⁸ Operation Palliser’s successes provided the UN the impetus it needed to send sufficient troops, modify the mandate, and turn UNAMSIL into the mission it should have been from the start, one that protected people and communities from violence.⁶⁶⁹

The British intervention gave UNAMSIL, the government, and the people of Sierra Leone the support it needed, “both psychologically and strategically,” to turn things around.⁶⁷⁰ Although it took another nine months before UNAMSIL made significant strides in deploying to the outer areas held by the RUF, they were successful in securing the Abuja cease-fire agreements with the RUF in November 2000 and May 2001 (Abuja and Abuja II⁶⁷¹). The Secretary-General also directed significant changes to operational and tactical procedures. Instead of scattering troops throughout the country, he positioned sufficient forces (16,500 total by this time) in key positions such that they could not only deter attacks, but effectively respond to armed attacks commensurate with a “strong peace-enforcement mandate under Chapter VII of the Charter.”⁶⁷² Many of the tactics used that resulted in success against the RUF were very similar to those used by the PSCs and subsequently the British troops. The advantage the British troops had, and one that made the difference in turning the tide in the conflict, was that the British were

⁶⁶⁸ Bellamy, Williams, and Griffin, *Understanding peacekeeping*: 38. Citation in Paul Williams, “Fighting for Freetown: British Military Intervention in Sierra Leone,” *Contemporary Security Policy* 22, no. 3 (2001).

⁶⁶⁹ “On 22 October 1999, the Security Council established UNAMSIL to cooperate with the Government and the other parties in implementing the Lomé Peace Agreement and to assist in the implementation of the disarmament, demobilization and reintegration plan. On 7 February 2000, the Council revised UNAMSIL’s mandate. It also expanded its size, as it did once again on 19 May 2000 and on 30 March 2001.” UNAMSIL website, <http://www.un.org/en/peacekeeping/missions/past/unamsil/>, accessed 14 March 2012.

⁶⁷⁰ Labonte, “Sierra Leone,” 181.

⁶⁷¹ Abuja I, 10 November 2000, website, <http://www.sierra-leone.org/ceasefire1100.html>, accessed 14 March 2012. Abuja II was an extension of the original ceasefire agreement.

⁶⁷² Kofi Annan, “Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone,” (New York: United Nations Security Council, 19 May 2000), paras 23, 86–89, and 100. *See also* Labonte, “Sierra Leone,” 182.

able to work jointly with the UN and the GoSL. PSCs seemed to only be able to work with the GoSL and the Kamajors; there was no coordination, cooperation, or collaboration with the UN.

Once the UN had the impetus and provided enough properly positioned and enabled troops in support of the UNAMSIL mission, it quickly saw successes, not only in the protection of people, but in promoting elections which took place on the 10th and 14th of May, 2002. DDR and SSR finally began in earnest, fully supported by the World Bank, the UK Department for International Development, the UNDP, and NGOs (earlier efforts in 1999 and 2000 were poorly supported, planned, and executed and resultantly failed). Clear and consistent communication between agencies, member states, and the UN also facilitated reinforcements to troop contingents and missions of disarmament and reintegration of combatants. In addition to receiving weapons, the demobilization centers also provided food and education programs so that newly disarmed soldiers with no skills other than fighting could find work in civil society. Properly funded this time, a Reintegration Opportunities Program was established that prepared the huge number of ex-combatants for roles within their home communities.

In addition to preparing ex-combatants for life other than war, there remained the problem of as many as 10,000 child soldiers (“many were used as combatants, but others, especially RUF children, served as bush camp laborers, porters, spies, miners in the eastern diamond districts, sex slaves, or war brides.”)⁶⁷³ Reintegration of children was especially difficult since many of them had been forced to commit atrocities on members of their home communities; therefore, returning them to those same communities was not always prudent. Moreover, there were questions over whether or not children would be prosecuted for the crimes they committed. This latter concern was addressed by the

⁶⁷³ ———, “Sierra Leone,” 188–89. *See also* Annan, “Fourth Report of the UNSG on Sierra Leone,” paras 26, 27, 49, 50.

Special Court Prosecutor in his press release exonerating child soldiers for crimes committed during the conflict, and instead, making it clear that he plans to prosecute the “people who forced thousands of children to commit unspeakable crimes” those who bear “the greatest responsibility” for abuses.⁶⁷⁴ By July 2003, the World Bank estimated that 6,845 children (approximately 98%), “were disarmed, demobilized, and ‘discharged’ over the course of the DDR program.”

In the end, it is clear that the role of peacekeepers, properly assigned, in sufficient numbers, and guided by effective policies and a robust Chapter VII mandate aided every part of the UN and government of Sierra Leone’s mission to solve the underlying causes of conflict and create peace. A single agency, be it the UNDPKO or a PSC is very unlikely to have been able to accomplish this broad and complex mandate with the same level of success that UNAMSIL eventually achieved. The progression of UNOMSIL and UNAMSIL from utter failure to relative success provides an excellent case for comparison of leadership and management, control, efficiency, and effectiveness. The Sierra Leone case also allows for a review and comparison of the broad scope of forces used over the ten year conflict, from Sierra Leone Army forces, to private soldiers and local militias, to British troops and multinational UN peacekeepers.

4. Use of PSC Pros and Cons

Table 9 below shows the various pros and cons discovered in a review of PSC actions in Angola. The side italicized in bold shows heavier weighting toward a specific pro or con.

⁶⁷⁴ David Crane, “Special Court Prosecutor Says He Will Not Prosecute Children,” (Kabala: Special Court for Sierra Leone, 2 November 2002). website, <http://www.sc-sl.org/LinkClick.aspx?fileticket=XRwCUe%2BaVhw%3D&tabid=196>, accessed 14 March 2012; Labonte, “Sierra Leone,” 188–90 and 222 f/n 172.

Table 9. Pros and Cons of PSC use in Sierra Leone

Pros	Cons
Adherence to Contracts	Adherence to Contracts
Cost	Cost
Legitimacy	Legitimacy
Human Security and Human Rights	Human Security and Human Rights
Effectiveness	Effectiveness
Speed and Flexibility	Public Relations

*The late Chinese leader Deng Xiaoping was right: it doesn't matter whether a cat is black or white, so long as it catches mice.*⁶⁷⁵

Thank you for calling the British Army. If your crisis is small and close to the sea, press 1 for the Royal Marines. If your problem is distant and can be solved by one or two low-risk bombing runs, press 'hash' for the RAF. This service is not available after 1600hrs or at weekends. If your problem is not urgent, please press 2 for the Allied Rapid Reaction Force. If you are in real trouble, please press 3 and your problem will be rerouted to Sandline International.

Spoof script circulating at UK MoD.⁶⁷⁶

The activities of mercenaries has [sic] affected deeply the political stability of Africa. The situation is very bad in Angola, the two Congos and Sierra Leone.

Enrique Ballesteros, the UN Special Rapporteur on Mercenaries⁶⁷⁷

⁶⁷⁵ Stanger, *One nation under contract : the outsourcing of American power and the future of foreign policy*: 177.

⁶⁷⁶ Spicer, *An Unorthodox Soldier*: 224.

⁶⁷⁷ Ballesteros, "Press Briefing on Question of Mercenaries."

These new ‘Dogs of War’ are hired not just for cash, but for diamond and oil concessions. In effect, this ‘new kind of business’ is not different from the traditional preoccupation with ‘killing for profit’.

David J. Francis, *Mercenary Intervention in Sierra Leone*⁶⁷⁸

a. Adherence to Contracts

- Pro

EO and Sandline International both fulfilled their contracts in Sierra Leone. Both companies departed the country once their contracted requirements were complete, even though by all accounts their continued presence, at least until other peacekeepers could arrive on station, likely would have prevented the country from falling back into the “reign of terror” caused by the RUF.

There was no “mission creep.” Neither EO nor Sandline created a situation of asset specificity such that they transformed their services to create a monopoly on accomplishment. The UN and the Organization of African Unity (OAU)⁶⁷⁹ had the troops, the resources, and the capability to do everything that both EO and Sandline had done; they did not, however, have the political will or support. Costs of services were clearly laid out at the commencement of operations and were not modified as time went on.

- Con

GSG’s adherence to their contract was a negative with regard to their effectiveness in Sierra Leone, not because they deviated from it, but because they refused to adapt to changing circumstances as required by the situation on the ground. “The contract instrument is useful for delivering a product, not for taking instructions.”⁶⁸⁰ GSG was hired to train the RSLMF, Special Forces, and officer cadets; however, once their commander was killed, they refused to accompany forces into the field at all and their limited training failed to improve the state’s security. GSG adhered rigidly to its

⁶⁷⁸ Francis, “Mercenary Intervention in Sierra Leone,” 322.

⁶⁷⁹ Later, in 2002, the OAU was replaced by the African Union (AU).

⁶⁸⁰ John D. Donahue, *The privatization decision : public ends, private means* (New York: Basic Books, 1989), 39. Cited in Avant, *The market for force : the consequences of privatizing security*: 85.

contract and ultimately was effectively fired by the Strasser government. Some argue that GSG made a calculated decision not to agree to a modified contract for fear that they would be perceived as mercenaries if they engaged in more offensive roles. GSG had been hired by a British corporation, Lonrho, to conduct de-mining in other parts of Africa; if seen as mercenaries, they believed that they would lose future contracts brokered through the British government.⁶⁸¹

b. Cost

- Pro

The final contract cost of EO's operation in Sierra Leone came to \$35.2 million for 21 months. EO claims to have only been paid \$15.7 million to date.⁶⁸² The UN cost for UNAMSIL, the only force other than PSCs to bring peace, was approximately \$607 million per year.⁶⁸³ From 1999 until UN peacekeeping efforts drew to a close in mid-2006, the United Nations spent about \$2.86 billion in assessed funds.⁶⁸⁴ Within the 21 months EO was in country, government forces, Kamajors, and ECOMOG troops, supported by EO:

1) drove the RUF back 80 miles into the bush from the capitol of Freetown (they were within 20 miles and preparing to attack)—this took the EO-led forces nine days;

2) seized back from the RUF the Kono mining district which provided 57 percent of Sierra Leone's export earnings from titanium dioxide (rutile) and bauxite, as well as from diamond deposits—a zero sum game since these were the same resources RUF soldiers were using to buy weapons—this operation took 4 days;

⁶⁸¹ Vines, "Gurkhas and the Private Security Business in Africa," 128–31.

⁶⁸² Barlow, *Executive Outcomes: against all odds*: 390.

⁶⁸³ Stuart McGhie, "Private Military Companies: Soldiers, Inc.," *Jane's Defence Weekly* 22 May 2002, 2. This figure is representative of the years of greatest UN troop involvement (UNAMSIL); however, costs were drastically different each year from 1999–2006 and the end of UN peacekeeping efforts.

⁶⁸⁴ Labonte, "Sierra Leone," 166. This figure includes both UNOMSIL and UNAMSIL.

3) attacked the key RUF base in the Kangari hills which ultimately persuaded the RUF to negotiate and sign the Abidjan Peace Accord with the Sierra Leone People's Party, as well as members of the OAU, the UN, and the Commonwealth Organization.

Sandline International entered Sierra Leone following a coup which occurred just under four months after the Abidjan Accords were signed. Sandline's contract was for \$10 million and included similar obligations as EO's contract: train the SLA, support the Kamajors, and work with ECOMOG to defeat the RUF and rout them from Freetown. One difference for Sandline was that part of their mission was re-installing democratically elected president Kabbah into office. Within three months, Freetown was liberated primarily by ECOMOG troops working with the RSLMF and Sandline. While the RSLMF, the Kamajors, and ECOMOG could not seem to accomplish defeating the RUF or bringing them to negotiations on their own, under the training, guidance, and combat support of EO and Sandline, they were able to quickly accomplish their goals and return peace to Sierra Leone.

- Con

Cost of EO's and Sandline's services has often been used as one of the "bottom line" determinants of the benefit of using PSCs over traditional UN peacekeeping. As a point of reference, EO's services cost the Sierra Leone government approximately \$35M for 21 months service;⁶⁸⁵ Sandline International charged \$10M for three months' service; and the two UN missions' average cost was \$408.6M/year.⁶⁸⁶ However, the figures compared rarely take it into account that the UN was not merely bringing the parties in conflict to the negotiation table—as EO and Sandline both claim to have done in Sierra Leone. Peacekeeping means much more than aggressive eradication and coercion of a rebel group to peace. A lion's share of peacekeeping involves assistance with, preparing for, and conducting elections, DDR, SSR, resettlement and

⁶⁸⁵ EO's president claims that the bill was \$33M and that much of it remains unpaid to this day; see Barlow, *Executive Outcomes: against all odds*: 390.

⁶⁸⁶ Singer, *Corporate Warriors*: 114–15; Labonte, "Sierra Leone," 166. UN figure comes from dividing the total of assessed funds for peace operations spent by the UN from mid-1996 through mid-2006 (\$2.86B/7 = \$408.6M).

repatriation of internally displaced persons (IDPs) and refugees, security for relief agencies, and “restoration of basic social services, as well as the medium-term reconstruction necessary to lay the foundation for long-term growth and development.”⁶⁸⁷

A more realistic comparison would be to review the role of British soldiers in Operations Palliser and Barras for their intervention, where offensive operations were necessary not only to defend peacekeepers, civilians, and aid workers from RUF attacks, but to rescue hostages and evacuate personnel from Freetown.⁶⁸⁸ The UK would not place their troops under UN control and the mission was funded entirely by the UK government, which makes actual costs difficult to pin down. The British used an entire Amphibious Readiness Group (ARG) centered on the helicopter carrier HMS Ocean along with two fleet landing ships to carry approximately 1,200 British troops to Sierra Leone for an evacuation mission. However, part of this mission ultimately included stopping the RUF from taking over Freetown, preventing the overthrow of the President, rescuing hostages and restore order. The British forces did what they set out to do within two months and, along with Sierra Leone government troops, added the capture of Foday Sankoh, the leader of the RUF, and placed him in solitary confinement.⁶⁸⁹ The British used very similar tactics, techniques, and procedures as EO and Sandline had used in their effective operations against the RUF: intelligence, proven counter-insurgency doctrine, efficient logistic stream, and operational processes honed through generations of working together and combat experience.⁶⁹⁰ Although direct cost estimates are not

⁶⁸⁷ Annan, “Report of the UNSG on Sierra Leone,” 7.

⁶⁸⁸ Similar operations are ongoing in early 2013 in Mali by French troops under UN authority.

⁶⁸⁹ Mark Tran, “New Imperialism in Sierra Leone,” *The Guardian*, 14 May 2004 14 May 2002.

⁶⁹⁰ The British used the skills Spearin claims are necessary for success in interventions such as these, requiring closely coordinated combat expertise and skill *see Spearin, “UN Peacekeeping and the International Private Military and Security Industry.” See also Patrick J. Evoe, “Operation Palliser: The British Military Intervention into Sierra Leone, A Case of a Successful Use of Western Military Interdiction in a Sub-Sahara African Civil War”* (Texas State University, 2008).

calculable, it is fairly evident that the cost of deploying an entire ARG, troops, equipment, and supplies is substantially higher than that of EO's cost for two months of similar operations. Unlike PSCs, the British also did not bill the struggling government of Sierra Leone. Another significant difference is that the British government worked closely with the UN, coordinating operations and movements so that UNAMSIL's efforts were complemented. EO and the UN failed to work effectively together at all, so although EO may have stopped the RUF from invading Freetown as did the British troops, the British troops stayed as long as necessary until the UN was able to resume control.

Although the above mission is but one example of British troops accomplishing similar goals as a PSC in a limited scope of time, a cost comparison that *can* be made relates to the UK's ten-year memorandum signed with the Sierra Leone government in which Britain promised to assist with long-term political, economic, and security sector reform. The UK has committed "£15M annually for an International Military Advisory Training Team (IMATT)," which is to transform the "Republic of Sierra Leone armed forces into an accountable, self-sustaining, and professional force."⁶⁹¹ Not surprisingly, this statement is very similar to what the EO commander, Brigadier Burt Sachs, stated was their goal in Sierra Leone: "[R]eorganising the RSLMF into a proper military structure and ...retraining its forces to a level where it could uphold the government without external assistance."⁶⁹²

⁶⁹¹ Krahmann, "Transitional States In Search of Support," 102. *See also UK Foreign and Commonwealth Office, "Africa–Security Sector Reform," Foreign and Commonwealth Office (FCO), <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1094236372310>.*

⁶⁹² Hooper, "Sierra Leone: The War Continues," 42. *As cited in* Francis, "Mercenary Intervention in Sierra Leone," 327.

Table 10. Sierra Leone Peacekeeping Costs⁶⁹³

ORGANIZATION	TIME FRAME	\$ COST PER YEAR	TOTAL OPERATION COST	RESULT
Executive Outcomes (400 personnel)	21 months		\$35.2 million	<u>Contract Success</u> -Defeated RUF -Gov't regained diamond fields and rutile mines -RUF signed cease-fire -Free & fair elections held
UNAMSIL (17,500 military troops)	1999–2006	\$607 million	\$2.86 billion	<u>Failure</u> -Coup ousted elected president -Thousands killed, maimed, or refugees -RUF overran capital
Sandline International	12/1997—2/1999		\$10 million	<u>Partial Contract Success</u> -Fulfilled initial mission outlined in contract -Assisted in routing RUF from Freetown -“Sandline Affair” prevented further support

c. Legitimacy

• Pro

PSCs offering their services to the desperate government of Sierra Leone may not have initially had *perceived* legitimacy. However, the primary PSCs that operated in Sierra Leone did have the proper licenses, their plans and procedures were

⁶⁹³ Cost table adapted from Barlow, *Executive Outcomes: against all odds*: Appendix B. Figures within table are readily available and have been compiled from numerous sources, *see for example*, Labonte, “Sierra Leone,” 151–52; Security Council Report, “Sierra Leone,” SCR Publications, http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.1203339/k.3F27/December_2005brSierra_Leone.htm. United Nations, “Sierra Leone - UNAMSIL - Facts and Figures,” United Nations, <http://www.un.org/en/peacekeeping/missions/past/unamsil/facts.html>.

approved before engagement, and they were hired by the legitimate government of Sierra Leone. For there to be an *adequate* degree of legitimacy, according to Pattison, these legitimating qualities must be cumulatively evaluated, and in the end, an important determinant and necessary factor is effectiveness.⁶⁹⁴ Therefore, by this definition, GSG was initially a legitimate intervener, but lost legitimacy when the company failed to effectively carry out their mission; because of their effectiveness, EO and Sandline were legitimate interveners, they had an *adequate* degree of legitimacy, even if indirectly they did not have “*perceived* [italics mine] legitimacy at the local and global levels.”⁶⁹⁵

Of those with the adequate legitimacy, who had the duty to act? “It is the *most* legitimate agent that has the *duty* to intervene. If this agent fails to intervene, the duty falls on the next most legitimate intervener, and so on.”⁶⁹⁶ In this case, the UN could have claimed to be the most legitimate agent (even in light of recent failures in Somalia, the Balkans, Angola, and Rwanda); however, the UN was not *effective* in previous operations and therefore, because effectiveness is a primary determinant of legitimacy, the UN’s legitimacy had been eroded.⁶⁹⁷ The regional organization ECOMOG also had legitimacy, but was unable to turn the tide of the conflict in favor of the NPRC. Whether or not the UN or ECOMOG were the most legitimate agents or not may be beside the point initially because they had *perceived* legitimacy—Strasser’s government went first to the UN for help. When the UN and regional actors did not help the government of Sierra Leone, their options were limited: 1) accept the status quo, that is the RUF murdering, killing, raping, and moving ever-closer to taking over the

⁶⁹⁴ Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*: 32, ch. 7.

⁶⁹⁵ Ibid., 209.

⁶⁹⁶ Ibid., 191.

⁶⁹⁷ UNPROFOR, UNAMIR, and UNAMSIL are commonly cited as clear examples of UN humanitarian intervention failures. Ian Hurd discusses this form of legitimacy, calling it the “favorable-outcomes” approach: “legitimacy is ultimately derived from the production of material payoffs and the satisfaction of perceived self-interests.” Hurd, *After Anarchy*: 67. This idea of failures to protect human security as a deterioration of legitimacy is also directly relevant to this case, supported by Habermas’s *Legitimation Crisis* wherein a state’s ability to protect its citizens is directly related to its legitimacy. Jürgen Habermas, *Legitimation crisis* (Boston: Beacon Press, 1975). Cited in Hurd, *After Anarchy*: 67.

government through mass atrocity and terror; or 2) find a legitimate agent to act on behalf of the government to help train and mobilize the RSLMF, defeat the RUF and bring peace.

Strasser's NPRC saw no alternatives but to hire a private firm to help them defeat the RUF. His was a somewhat Hobbesian choice: he could have security, but at a cost—the international community was not offering any assistance. Steven Brayton asks a poignant question at the beginning of his article, *Outsourcing War*, “If other nations, individually or collectively, are not willing to contribute to multilateral peacekeeping or peacemaking forces, why should a state not have the right to hire a force able to keep order?”⁶⁹⁸ It was clear to many in his nascent government that without military support to stop the RUF, he would not keep power for long. Adequate legitimacy was all that was needed to justify the use of private companies, and PSCs met this minimum condition, since EO had been recently “effective” in Angola. Sandline, however, had only their recent failure in Papua New Guinea as their resumé. The fact that relatively untested PSCs were considered by the government of Sierra Leone only further affirms Sierra Leone's desperation. But again, this does not change the fact that these were legitimate corporations offering services that no one else was willing to provide.

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Based upon the earlier discussed definition of legitimacy, none of the PSCs that entered Sierra Leone had the full measure of legitimacy going in. Without the stamp of legitimacy that the UN or primarily Western nations could have given to PSCs, legitimacy was something that the PSCs had to earn. Unfortunately, negative press, claims of torture, human rights abuses, and an overly-aggressive force did not lead to legitimacy that could be respected by the international community or Western powers. As a result, neither EO nor Sandline had “humanitarian credentials” or “prevailing political context” in their favor.⁶⁹⁹ Had the PSCs been able to change public opinion and garner support from the UN and Western powers, there may have been real cause for support

⁶⁹⁸ Brayton, “Outsourcing War,” 303.

⁶⁹⁹ Heinze, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention*.

leading to lasting peace as opposed to the transitory peace that EO and Sandline brought. For Pattison, effectiveness is the critical element in legitimacy, and if there are other legitimating factors in place, it can be a sufficient determination of legitimacy. However, calling the PSCs in Sierra Leone “legitimate” does not necessarily make their actions just. Pattison argues that PSCs can even violate principles of *jus in bello* yet remain legitimate if they are “(1) responding to a serious humanitarian crisis and (2) [are] likely to be successful.”⁷⁰⁰ The problem is that in this case, their *perceived* legitimacy never improved, and their likelihood of success was in question from the start. Whether or not they stopped the violence, they were perceived by many in the media and in the international community as thugs killing rebels in order to steal precious mineral rights from a President willing to mortgage his country’s sovereignty.

d. Human Security and Human Rights

- Pro

“In both Angola and Sierra Leone, EO conducted itself professionally and compiled a respectable human rights record, especially relative to other African armies.”⁷⁰¹ Eeben Barlow, EO’s president, claimed that “EO takes the human rights record of the potential employing country into consideration before accepting a contract.”⁷⁰² Tim Spicer of Sandline makes a similar claim, but adds that the presence of a PSC actually “raises the standards of behavior of indigenous forces” because PSC personnel will not stand for those sorts of abuses that seem to be common in third world countries.⁷⁰³ Though it may be true that atrocities and human rights abuses were committed by troops (RSLMF and Kamajors) on the side of the Sierra Leone government, EO and Sandline both contend that their personnel were not responsible for the trophy taking and mutilations ascribed to them in their actions against the RUF.

⁷⁰⁰ James Pattison, “Deeper Objections to the Privatisation of Military Force,” *Journal of Political Philosophy* 18, no. 4 (2010): 3.

⁷⁰¹ Zarate, “The Emergence of a New Dog of War: Private International Security Companies, International Law, and the New World Disorder,” 9.

⁷⁰² Ibid., 50 f/n 159.

⁷⁰³ Spicer, *An Unorthodox Soldier*, 24.

Patrick Muana remarks that “many Kamajors had lost relatives to the RUF and were looking for revenge.”⁷⁰⁴ Since the Kamajors and EO personnel were working closely together, it is possible that Kamajor-inflicted atrocities could have been attributed to EO personnel. However, Barlow comments in his autobiography that there were occasions where EO personnel had to stop the villagers and RSLMF from mutilating the RUF dead, that this behavior was viewed as repulsive by EO soldiers and not tolerated.⁷⁰⁵ A senior UN advisor commented, “Throughout our intensive investigations over the next one year, i.e. 1995–96, we did not come across any concrete information or evidence which would implicate EO in any of the allegations leveled against [EO].”⁷⁰⁶ There is no record or evidence to substantiate a claim that either EO or Sandline personnel committed human rights abuses or atrocities while carrying out their contracted tasks in Sierra Leone.

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The UN report on the use of mercenaries stated that the “Special Rapporteur has been informed of appalling acts of cruelty committed by mercenaries on captured rebels and on civilians suspected of collaborating with the insurgents.”⁷⁰⁷ Specific incidents cited involve two of the three key PSCs active in Sierra Leone. GSG sent a military offensive to attempt to recover CDR MacKenzie’s body after he was killed in an ambush. A senior officer associated with the operation claimed that, in their attempt, captured rebels were tortured and killed indiscriminately.⁷⁰⁸ The actions of GSG caused a great deal of resentment within the RSLMF and the NPRC, which was at least part of the reason GSG left the country early.⁷⁰⁹ A second rescue-type mission was conducted by EO when three members of their sister company, Lifeguard, who were

⁷⁰⁴ Muana cited in Keen, *Conflict & Collusion in Sierra Leone*, 155.

⁷⁰⁵ Barlow, *Executive Outcomes: Against All Odds*, 359.

⁷⁰⁶ Statement of senior UN advisor serving in the UN at the time of EO’s involvement in Sierra Leone. Ibid., 512–13.

⁷⁰⁷ UN, “Report on the Question of the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination,” in *The Right of Peoples to Self-determination and its Application to Peoples Under Colonial or Alien Domination of Foreign Occupation*, ed. Enrique Ballesteros (New York: United Nations, 1997), Section 29.

⁷⁰⁸ Francis, “Mercenary Intervention in Sierra Leone,” 332.

⁷⁰⁹ Ibid.

carrying out their duties protecting the Mobimbi Rutile mines had had been taken hostage by the RUF. Though the mission to recover the three employees was successful, the offensive produced “very high civilian casualties,” according to David Francis. Francis adds that because EO was considered part of the government’s military and security apparatus, they were not held accountable for any abuses that they may have committed.⁷¹⁰

The UN report mentioned above also stated that “[h]iring private companies providing security and military assistance and advice is no substitute for maintaining a collective regional security system and genuinely professional national armed forces and security forces loyal to the democratic legal order. It is a false solution. When companies of this type leave the country, they also leave behind the structural problems they found when they arrived unsolved, if not actually worse.”⁷¹¹ This latter statement is exactly what happened in Sierra Leone; none of the underlying issues had been addressed by any of the private companies engaged there. In fact, there is a good possibility that more violence occurred after their departure because deeper divisions were created between groups such as the Kamajors, the RSLMF, the RUF, and the civilian population. Civilians were forced to take sides and the untrained RSLMF was unable to effectively protect either civilians or themselves from RUF attacks. Instead of bolstering the military for the long-term support of the government (which may have been the initial, but failed, goal of using private firms to train the RSLMF), private firms increased the lethality of the Kamajors and the “so-bels” (government troops also working with the RUF or the AFRC), both of whom were actively causing many of the atrocities against each other. Once the effective command and control of tactically efficient PSCs like EO and Sandline was gone, atrocities grew dramatically worse and were attributed to lethal offensive training provided by private companies.

⁷¹⁰ Ibid., 332–33.

⁷¹¹ UN, “UN General Assembly Report on the Use of Mercenaries,” Section 30.

e. Effectiveness

- Pro

Over the span of four years, all but one of the PSCs hired in Sierra Leone completed their contract as they were hired to do. GSG failed to fulfill its contract with Sierra Leone and was quickly replaced by a PMC prepared and willing to do what the government asked it to do. When the event which spurred GSG's departure from Sierra Leone occurred, the UN already had an exploratory mission on station in Sierra Leone. The murder of GSG's commander and 17 of his men while setting up a forward training base led GSG to pull its personnel back and refuse to engage the RUF. This was a clear sign that a more aggressive force was going to be necessary in order to stop the RUF and bring them to negotiations. Though UN officials in country agreed more force was necessary, the will at UN headquarters and of the Security Council was not sufficient to garner the necessary troop support. EO, and later Sandline, filled in for the international community and answered the pleas of the legitimate government of Sierra Leone. Two times, PMCs were critical in bringing the belligerents to peace accords (Abidjan and Lomé Accords), and both times the UN reneged on providing promised peacekeeping troops. If, as the saying goes, a stitch in time saves nine, robust engagement by the UN at either of these brief moments of peace, rather than years later, is likely to have brought this protracted conflict to a resolution much sooner, reducing immiseration and saving countless tens of thousands of lives.

EO, Sandline, and later Lifeguard (which was a commercial security company closely associated with Sandline and tasked with guarding diamond mines, industrial concerns, and the Bumbuma Dam⁷¹²) accomplished the tasks they were hired to perform under their respective contracts with the government of Sierra Leone.

⁷¹² Spicer, *An Unorthodox Soldier*: 190.

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Violence erupted soon after the end of both of EO and Sandline's contracts. Even if the PMCs' actions created momentary stability, they were not able to do any more than what they were contracted to do. As Elke Krahmann points out, "the fundamental problems and weaknesses within their national security sectors had not been addressed."⁷¹³ David Francis notes that EO's intervention "could hardly be expected to address the permanent security concerns of the government because of the undisciplined army and the collapse of the state apparatus...EO was hired by a desperate government struggling for its regime's survival, and functioned as a quick fix security at whatever price."⁷¹⁴ But this does not change the fact that their effectiveness in the short-term did nothing to help Sierra Leone solve its deeper problems with the RUF and anti-government forces. The UN Special Rapporteur on mercenarism, Enrique Ballesteros, noted that EO did not help avert the coup d'état on 25 May 1997, nor did they assist in averting the formation of an alliance between the RUF, the AFRC, and the Koroma government after the coup.⁷¹⁵ (However, it should also be noted that EO was required to leave the country as part of the peace agreement.)⁷¹⁶ Ballesteros also added that "Executive Outcomes was supposed to have provided Sierra Leone with effective protection and security. Obviously, these claims were nothing but propaganda. The deep-lying problems remained untouched."⁷¹⁷ If effectiveness is based upon the long-term attainment of peace, then the PSCs failed.⁷¹⁸

⁷¹³ Krahmann, "Transitional States In Search of Support," 102.

⁷¹⁴ Francis, "Mercenary Intervention in Sierra Leone."

⁷¹⁵ UN, "UN General Assembly Report on the Use of Mercenaries."

⁷¹⁶ See Article 12 of Government of Cote d'Ivoire, "Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (Abidjan Accord)," ed. the United Nations Government of Cote d'Ivoire, the OAU, and the Commonwealth (Freetown: United Nations, 30 November 1996).

⁷¹⁷ Francis, "Mercenary Intervention in Sierra Leone," 330.

⁷¹⁸ It may seem glib, but if solving the underlying problems which were complicating potential peace in Sierra Leone was a responsibility of EO or Sandline, then this is certainly something that should have been negotiated in their respective contracts, just as responsibilities of UN peacekeepers are delineated in UN mandates.

Stephen Stedman argues that mission success is operationalized “by scoring two variables: (1) whether large-scale violence is brought to an end while the implementers are present; and (2) whether the war is terminated on a self-enforcing basis so that the implementers can go home without fear of the war rekindling.”⁷¹⁹ Using Stedman’s method of appraisal, both PSCs accomplished the former while failing at the latter goal. Arguments for effectiveness generally tend toward the long-term “resolution of the underlying conflict,” one of two of Paul Diehl’s measures of success.⁷²⁰ However, this definition does not take into consideration the fact that many conflicts change over time from what triggered the conflict to what sustained it or re-ignited it.⁷²¹ His second measure is “limitation of armed conflict,” which both EO and Sandline accomplished, but only for the duration of their contract.⁷²² In the case of Sierra Leone, there were multiple and shifting causes of the conflict over its decade-long run; therefore, Diehl’s standards are not sufficient for measuring effectiveness (since one of his two measures would contend that they were effective and the other would find that they were not). On the whole, sustained peace and resolution of the underlying causes of conflict are consistent themes throughout the peacekeeping literature and both are argued as fundamental requirements for determinations of peacekeeping success. Based upon these determinants, all three PSCs, GSG, EO, and Sandline, failed to bring peace to Sierra Leone.

⁷¹⁹ Stedman, Rothchild, and Cousens, *Ending Civil Wars : The Implementation Of Peace Agreements*, 50.

⁷²⁰ Diehl, *International peacekeeping*: 33–40. Cited in Howard, *UN Peacekeeping In Civil Wars*, 6.

⁷²¹ Charles King, “The Uses of Deadlock: Intractability in Eurasia,” in *Grasping the Nettle: Analyzing Cases of Intractable Conflict*, ed. Fen Osler Hampson Chester Crocker, and Pamela Aall (Washington, DC: U.S. Institute of Peace Press, 2005), 269. Cited in Howard, *UN peacekeeping in civil wars*: 6.

⁷²² Diehl, *International peacekeeping*: 62–91. Diehl explains that the success of the limitation of armed conflict depends primarily on three factors: 1) third parties; 2) neutrality; and 3) geography, all of which exacerbated issues, reducing chances of success in Sierra Leone.

f. Speed and Flexibility

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Both EO and Sandline were able to respond immediately to the government of Sierra Leone's requests for assistance. Within days of requesting help, Eeben Barlow, EO's president, immediately began transferring personnel from their recently completed contract in Angola. Contrary to many media reports that allege EO brought massive firepower and cutting-edge technology to bear on the RUF, the fact is that EO used the equipment provided by the Sierra Leone Army (AKA RSLMF). The areas in which they exercised the greatest deal of innovation were training and tactics. It was EO's ability to use the weapons and troops available that made them so efficient in pushing the RUF back. In the case of Sandline, their services were requested by the democratically-elected President Kabbah who had been ousted in a coup. With the knowledge of the Foreign Commonwealth Office in the UK (where Sandline was based), and the understanding that they were supporting the legitimate government of Sierra Leone, Sandline's president, LtCol Tim Spicer began sending personnel as soon as the contract was signed.

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Speed and flexibility can certainly be critical factors when human security is at stake. When R2P crimes are being committed, human rights abuses are occurring, or violence has become unrelenting and unstoppable within or between countries, intervention is often the last resort. The UN Charter authorizes intervention in these circumstances, and since the nineties, intervention has become the norm rather than the exception. However, intervention by the UN during the Sierra Leone civil war was not to happen for years after the RUF began its attempts to overtake the NPRC government and tens of thousands of civilians were mutilated or murdered. Desperate, the NPRC turned to a private company for protection. At first gloss, this may seem like an obvious answer, especially if the government is legitimate and has a genuine belief that they will be ultimately supported by the international community in saving themselves from certain demise.

Intervention by the PMC EO (after GSG's failed attempt) was swift. The operatives employed were seasoned soldiers who had fought in other wars in Africa, and were therefore able to adapt quickly to Sierra Leone's unique combat environment. As Howe, Brooks, Schwartz, and others describe them, EO was a "force multiplier"⁷²³ for the RSLMF and acted to quickly regain ground for the government and private businesses (whose profits tended to support whoever happened to be in power). As a force multiplier, EO's "specialized skills enhance[d] the effectiveness of a much larger force."⁷²⁴ However, this speed and flexibility had drawbacks that, myopically, were not envisioned by the threatened NPRC. First, in an interview with a high-ranking former U.S. diplomat, Howe was told that "EO's presence may have exacerbated Sierra Leone's security dilemma" because 1) the RUF began resorting to more ruthless tactics as retaliation; 2) negotiations were potentially postponed because of "EO's pressure on the RUF"; and 3) the fact that the NPRC had called on so-called "mercenaries" negatively affected the government's legitimacy.⁷²⁵

Although EO had a generally positive relationship with the civilian public in Sierra Leone (at least as compared to the actions of many sobels and RSMLF soldiers), their intervention was seen for what it was, a hired force, there at the will of a tenuous government. Reno contends that Kabbah's hire of EO "gave him a measure of autonomy vis-à-vis local rivals and the global economy."⁷²⁶ This autonomy led to resentment and a belief by many that the money paid to EO could just have easily been used to improve the RSLMF (better equipment, better pay). By 1997, a coup overthrew Kabbah, and as Kayode Fayemi contends, it was motivated by EO's high salaries and the assistance (primarily financial) they gave to the Kamajors.⁷²⁷ "What they do not do is address the

⁷²³ Howe, *Ambiguous Order*: 198–99; Schwartz, "DoD's Use of PSCs"; Brooks. Interview, September, 2010; Brooks, "Ruthless Humanitarianism: why marginalizing private peacekeeping kills people."

⁷²⁴ Howe, *Ambiguous Order*: 199.

⁷²⁵ Ibid., 211.

⁷²⁶ Reno, *Warlord politics and African states*: 136.

⁷²⁷ Kayode Fayemi of the Africa Research and Information Bureau, quoted in Kayode Fayemi, "Africa/Mercenaries," *Voice of America* 8 July 1997.

root causes of the conflicts they've been involved in. They scratch the surface. The minute [EO] left Sierra Leone—what they drove underground rose up when they left.”⁷²⁸ With regard to speed and flexibility, as quick as EO was to arrive, they left, without ever addressing any underlying causes of instability or conflict, and without any long term commitment to the country.

g. Public Relations

• Pro

Companies like Executive Outcomes and Sandline International were the innovators in the international privatized security world. Their qualified successes in places like Angola and Sierra Leone set the stage for the future use of PSCs in everything from conflict to reconstruction, stabilization, humanitarian operations and disaster relief. The dynamic business model of a corporation with the capability to provide a single source for military support, security, logistics, transportation, training, intelligence, support to police, operational and C/PC resolution services was unprecedented. From this model grew the giants we know now as DynCorp, MPRI, G4S, Armor Group, Blackwater Worldwide (now “Academi”), L3, Securicor, Securitas, Bancroft, AEGIS, Triple Canopy, and others.

Until EO and Sandline participated in these brutal conflicts, hired by governments, private security services predominantly stayed within their area of expertise, for example, guarding buildings and acting as bodyguards, often subcontracted by corporations protecting resource extraction facilities in conflict-ridden or dangerous places. Once EO and Sandline demonstrated their capabilities, governments noticed, and whether it was the allure of cost-efficiency, effectiveness, avoidance of political accountability, or out of expediency and regime survival, the PSC industry commenced

⁷²⁸ Kayode Fayemi, “Sierra Leoneans Resist New Rulers,” *Washington Post* 11 June 1997. Cited in Howe, *Ambiguous Order*: 210.

its explosive growth.⁷²⁹ Early PSCs did not include public relations departments, and maybe they should have, considering the wealth of misinformation out there regarding the distinctions between PSCs and mercenaries.⁷³⁰ Public relations departments aside, PSCs' initial media attention may have been overwhelmingly negative,⁷³¹ but the demand for their services has increased drastically over the span of fifteen years to the present.⁷³²

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Not one of the PSCs involved in Sierra Leone had an effective public relations team. If the PSCs operating in Sierra Leone were acting wholly above-board and observing human rights, as they claimed, then they did a poor job making it apparent to the world. As a result, their PR failure meant that these PSCs were unable to productively work with the public, international organizations, or the international media community in order to properly convey their actions or their humanitarian intent—if in fact they had humanitarian intent as they claims, rather than being purely driven by profit. Both positive and negative dialogue between the PSCs and the world would have added transparency that may have led to intervention by the international community sooner. Any abuses or misconduct might have been discovered sooner as well, rather than after the fact and nearly impossible to prove or disprove (which is beneficial to neither party).

⁷²⁹ For an excellent discussion of the rise of PSCs and their transition from being considered as “mercenaries,” a label that has been difficult for them to shake, to their preferred title as “peace and security ambassadors,” see Gumedze, “Pouring old wine into new bottles? The debate around mercenaries and private military and security companies.”

⁷³⁰ Ibid. See also the vast difference in how self-proclaimed mercenaries and PSCs portray themselves, e.g. Mike Hoare, *Congo mercenary* (London: Hale, 1967); Spicer, *An Unorthodox Soldier*; Barlow, *Executive Outcomes: against all odds*.

⁷³¹ Doug Brooks, president of the ISOA, maintains that negative media bias remains to this day and that it affects the ability of PSCs to do valuable humanitarian work. See for example, Duelge, “Ethical Lessons On Contractor Value.”

⁷³² As an example, in 2004, PSC annual revenue was estimated at \$100 billion. Peter W. Singer, “War, Profits, and the Vacuum of Law: Privatised Military Firms and the International Law,” *Columbia Journal of Transnational Law* 42(2004): 523–24. Even with the U.S.’s forecasted reduction in use of PSCs, growth of the global market for PSC services is expected to continue at 7.4%, placing revenue for the industry at \$218.4 billion by 2014. Freedomia Group, “World Security Services to 2014,” in *Industry Research Studies* (Cleveland: Freedomia Group, March 2011). Cited in Nikolaos Tzifakis, “Contracting Out to Private Military and Security Companies,” *Centre for European Studies (CES)* (2012).

EO operatives claimed that they only engage in defensive pre-emptive strikes. They also claimed that they only conducted training for legitimate governments and not rogue regimes.⁷³³ These assertions fell on deaf ears because during their engagement in Sierra Leone they were not actively providing the UN or the international media reports of their activities. What journalists and UN observers often saw were the post-battle remains where, in many cases, hundreds of civilian men, women, and children were left slaughtered and mutilated, usually by the retreating RUF. As is current common practice, EO and Sandline might have recorded their activities or conducted regular press briefings in order to show that they were, in fact, respectful of human rights and acting with humanitarian intent. Recording or reporting their operations may have served two purposes: 1) proven they were not responsible for the atrocities; and 2) had they communicated better with the world through the media, the UN, and political channels, the need for international assistance and action in Sierra Leone may have been conveyed more clearly and answered more expeditiously. EO and Sandline were both generally distrustful of the media. As Doug Brooks, president of the ISOA, has remarked, many journalists are only after a “spicy mercenary” story.⁷³⁴

5. Summary of Case and Conclusion

The utility of the Sierra Leone case is that there is a wealth of data on which to base analysis; it provides for review of a broad spectrum of “peacekeeping” forces, as well as their tactics, techniques, and procedures. Not only were PSCs involved, but so were local militias, national troops, regional troops, and UN forces, all ostensibly in Sierra Leone to bring peace to a war-wracked country. In the final analysis, long-term peace was not achieved until a large, multi-faceted peace operation was able to address the vast array of problems which had beset the country. Regional operations such as ECOMOG, the British troops, and the PSCs only covered a small, yet important, part of

⁷³³ Zarate, “The Emergence of a New Dog of War: Private International Security Companies, International Law, and the New World Disorder,” 8.

⁷³⁴ Brooks, personal interview, 26 October 2011.

that array—the security sector. Another important note is that certain methods that led to success in one mission may not work in another when the circumstances of the mission are substantially different.⁷³⁵

EO and Sandline fought the RUF alongside the RSLMF, Kamajors, and ECOMOG, pushed rebels out of capitol of Freetown, secured the diamond and rutile mining areas, destroyed bases from which RUF could attack capitol or mining areas and made possible the peace agreements of November 1996 (Abidjan) and July 1999 (Lomé). British troops acting alongside the UN and ECOMOG forces did the same thing more than a year later after a British security patrol and more than 400 UN peacekeepers were taken hostage by violent RUF rebels and anti-government forces in direct defiance of the peace agreement signed by them and the government of Sierra Leone.⁷³⁶

It is clear that both EO and Sandline were effective at carrying out their contracts in Sierra Leone. Whether or not their actions were beneficial to the country as a whole as the PSCs' directors claim, and in the long run, is certainly debatable. Not only did the bloody civil war last until sufficient number of regional and international troops arrived on station, but some argue that EO and Sandline's presence in Sierra Leone "influenced Western governments to not get involved militarily in the country's civil war."⁷³⁷ Even if the U.S. and UK tacitly agreed with the PSCs' presence (and possibly *because* of their presence), they found no reason or benefit from sending military assistance.

A lesson that can be derived from this case study that has not been discussed in depth elsewhere is that there was a lacuna of coordination and cooperation between PSCs and the UN, the OAU, the government of Sierra Leone (from Presidents Strasser to Bio to Kabbah to Koroma, and back to Kabbah) and ECOMOG, the RSLMF, and the Kamajors from the time GSG was first hired in late 1994 to the moment when Sandline left in early 1998. The fact that GSG had failed to successfully push the RUF back and

⁷³⁵ Labonte, "Sierra Leone," 204–05.

⁷³⁶ The "anti-government forces" were the West Side Boys, a notorious criminal gang not necessarily affiliated with the RUF, but whom were extremely disruptive to attempts at peace and the peace process.

⁷³⁷ Kinsey, *Corporate Soldiers And International Security*, 63.

stop the violence was an early indicator that either more force was necessary or significantly more international intervention was necessary. Because the UN did not intervene after GSG's demise and retreat, and the GoSL did not have the organic military capability to defeat the RUF, Strasser's NPRC had very few places to turn for assistance. Word of EO's effectiveness in Angola had an appeal that was hard to ignore, if for no other reason than EO's intervention could serve as a stop-gap until the UN or national "allies" could rally sufficient will to assist. Unfortunately for tens of thousands of citizens of Sierra Leone, the international community did not intervene until after the British used military force to stop the violence until the UN could get a foothold. In the end, there was no sharing of information, communication between intervening elements only existed in negative form, e.g., harsh media attacks on all parties, and there was no continuity of effort toward creating peace in Sierra Leone. It is because of failures such as occurred in Sierra Leone that the UN has shifted to attempting a more robust approach to peacekeeping, one that no longer separates out distinct stages or phases of effort. As Adam Smith from the International Peace Institute told me, "The UN has defined nearly all the tasks of a mission—and the overall goal of a mission—as peacebuilding. Everything the UN does is presumably peacebuilding."⁷³⁸ This statement also relates to ideas discussed by Bellamy, Williams, and Griffin, whereas drawing a distinct line between types of peacekeeping marred success in Somalia (UNOSOM II) and Bosnia (UNPROFOR) because the use of force was not part of a wider, more comprehensive, strategic plan.⁷³⁹ Finally, the Brahimi Report emphasized that the military part of peacekeeping must be robust in order for peacekeepers to have the flexibility to move between peace enforcement and what was considered previously to be traditional peacekeeping in order to be effective.⁷⁴⁰ It was these failures of the effective use of force by the UN in Sierra Leone, Somalia, and Bosnia that contributed to the Brahimi Report's

⁷³⁸ Smith, "Interview with Adam Smith, Researcher, International Peace Institute."

⁷³⁹ Bellamy, Williams, and Griffin, *Understanding Peacekeeping*, 170.

⁷⁴⁰ William Durch, "The Brahimi Report and the Future of UN Peace Operations."; United Nations, "Report of the Panel on United Nations Peace Operations," http://www.un.org/peace/reports/peace_operations/docs/summary.htm. For a discussion on moving across the spectrum of peace support operations, see Bellamy, Williams, and Griffin, *Understanding peacekeeping*: Ch. 6.

findings. Sierra Leone's initial peacekeeping failure stemmed from many causes, not the least of which was that efforts were poorly coordinated (if at all) between the private sector, the UK MoD (sent intervening troops not integrated with UN troops), the UN, and the NPRC, and distinct ideas of peace enforcement versus peacekeeping delayed the UN's arrival because of questions of consent, use of troops, and ROE.

The only periods of peace within that almost five-year span between when GSG initially engaged and British troops were able to stop violence and reestablish elements of human security occurred when PSCs were present. Lasting peace was not secured until more than a year after the Lomé Accords were signed in 1999, and only after the aforementioned successful British intervention, when the UN finally made good on their promise to send sufficient peacekeeping troops and support. This case shows that clear C2, communication between agencies, sufficient troops and equipment, and sufficient political will is necessary to address the broad spectrum of issues at the root of conflict. As Eric Berman and Melissa Labonte note in their analysis, "it should not take a hostage crisis to elicit a proper demand from DPKO for accountability in a mission headquarters."⁷⁴¹ In accordance with the agreed-upon norms of the responsibility to protect (R2P), it should also not take genocide, ethnic cleansing, war crimes, or crimes against humanity for the United Nations and the world to act to prevent any of those atrocities from occurring.

⁷⁴¹ Labonte, "Sierra Leone," 205.

C. BOSNIA-HERZEGOVINA

One day someone at UN HQ will commission an official report about [the Srebrenica disaster] ... But for me there's only one lesson ... If blue-helmeted UN peacekeepers show up in your ... village and offer to protect you, run. Or else get weapons. ...I've had it with our humanitarian hubris. Andrew Thomson, Serb-held Bosnia, 1996⁷⁴²

The peacekeeping operations in the former Yugoslavia were the most costly the UN had ever undertaken.⁷⁴³ The details of the operations and tragedies of UN peacekeeping in Bosnia-Herzegovina and Croatia have been covered in great detail. Therefore, rather than rehash the details of the many aspects of this complex conflict, focus will be on the intervening actors and their roles in attempting to secure peace and human security. The other two cases demonstrate individual PSC and UN peacekeeping forces acting independently of one-another. The significance of this case study is that it is a rare example of conflict and post-conflict peacekeeping (and peacebuilding) where the UN, regional organizations, states, and PSCs all worked in the same space and over a fairly short span of time. In the final analysis, this dissertation finds that the best scenario is one where protection of human security will be accomplished through the use of hybrid organizational responses: PSCs will be acting as part of the peacekeeping “team” under a UN mandate. The Bosnia case displays some of the pros and cons to this approach, but finds that it will likely be closer to the future of peacekeeping than the other two cases.

⁷⁴² Cain, Postlewait, and Thomson, *Emergency Sex And Other Desperate Measures : A True Story From Hell On Earth*, 252, 54.

⁷⁴³ According to Howard, “The total operational costs in Bosnia and Croatia were approximately \$5 billion—more than twice as expensive as any previous peacekeeping mission.” Howard, *UN Peacekeeping In Civil Wars*.

1. Historical Summary

The purpose of NATO's operation "Deliberate Force," was launched to halt suffering, "ostensibly in support of Security Council resolutions."⁷⁴⁴ Following the initial and successful air strikes, NATO took over management of the entire military component of peacekeeping operations being conducted in Bosnia. Ultimately, it was NATO forces that halted Slobodan Milosevic's Serbs from continuing their ethnic cleansing, rape, and murder of Bosnian and Croatian Muslims. It was also NATO forces who were responsible for bringing the parties of the conflict to the negotiating table, resulting in the Dayton Accords. But this was not without prior failures to halt the violence on the part of the international community and the UN. In 1992, through the Petersberg Declaration, the European Community (EC, now EU) attempted to help through its defense arm, the Western European Union (WEU), by sending policing forces to assist in monitoring the UN arms embargo on the former Yugoslavia.⁷⁴⁵ However, this effort by the EC and the WEU was not nearly enough to stop the progression toward war; and in the beginning, "when the inability of the European Union and the unwillingness of NATO failed to stop the slide towards war in the region, the resulting conflicts were dumped on a reluctant United Nations."

The unsuccessful efforts of the EC followed the secession of Croatia and Slovenia from the Socialist Federal Republic of Yugoslavia (SFRY) in 1991. Bosniaks and Croats were in favor of secession from the SFRY, but the Serbs, who made up twelve percent of the population of Croatia, and backed by the Yugoslav People's Army (JNA), opposed secession. The Serbs fought to establish their own republic once the referendum of independence had been passed in February 1992. Since the breakup of the Yugoslav federation left the Serbs without a geographical state within the newly formed Bosnia and Herzegovina, Serbian leadership sought to create a republic on their own, Republika Srpska (RS) and establish a geographically bound, sovereign state. By April 1992,

⁷⁴⁴ Bellamy, Williams, and Griffin, *Understanding Peacekeeping*, 43.

⁷⁴⁵ Ibid.

Bosnian Serbs and the Army of Republika Srpska (VRS),⁷⁴⁶ backed by the JNA, began their offensives on Croat and Bosniak people in an effort to carve out their own territory. Particularly violent, the VRS used rape, attacks on civilians, and ethnic cleansing to accomplish its goal of a Serbian state. The UN, recognizing in 1991 that tensions were escalating as a consequence of the declarations of independence by Slovenia and Croatia, began drafting the proposal to intervene. Although there were concerns with probabilities of success through intervention, the UNSG “stressed that, in his view, the danger that a United Nations peace-keeping operation would fail for lack of cooperation from the parties was less grievous than the danger that delay in its dispatch would lead to a breakdown of the cease-fire and to a new conflagration.”⁷⁴⁷

UN operations in the former Yugoslavia began in February 1992 as UNPROFOR, the UN protection force, and included essentially three areas of deployment: Bosnia, Croatia, and the Former Yugoslav Republic of Macedonia (FYROM).⁷⁴⁸ The UN’s mission was very broad, in that UN peacekeepers “were sent to Croatia to freeze the situation in order to prevent war, to Bosnia in order to protect humanitarian relief operations, and to FYROM in order to prevent the conflict from spreading south into this area.”⁷⁴⁹ In order to accomplish all of this, the Security Council authorized 39,000 troops (45,000 UN personnel total) over the length of the mission (February 1992—December 1995). With such a broad mandate and so much to accomplish, UNPROFOR’s future success was uncertain, but one thing was clear, if civilians in the former Yugoslavia were to be protected from imminent harm, the international community had decided that it needed to do something as the region slid into war.

⁷⁴⁶ AKA Bosnian Serb Army.

⁷⁴⁷ United Nations Department of Public Information, “Former Yugoslavia--United Nations Protection Force--Completed Operations Background,” (New York: United Nations, September 1996).

⁷⁴⁸ UNPROFOR’S operational mandate included the five Republics of the former Yugoslavia: Croatia, Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia, and had liaison presence in Slovenia. See UN’s website: www.un.org/en/peacekeeping/missions/past/unprof_b.htm, accessed 24 August 2012.

⁷⁴⁹ Biermann and Vadset, *UN peacekeeping in trouble: lessons learned from the former Yugoslavia: peacekeepers’ views on the limits and possibilities of the United Nations in a Civil War-like conflict*: xxi.

UNPROFOR started as a mission in Croatia to protect certain areas designated as UN Protected Areas (UNPAs) and to assist in maintaining the ceasefire which was in place in February 1992. The three UNPAs were: Eastern Slavonia, Western Slavonia, and Krajina and were divided into four sectors (East, North, South, and West). Initially, UNPROFOR was to supervise the withdrawal of the JNA from Croatia and the demilitarization of the UNPAs, while maintaining local police and judicial structures; however, UNPROFOR's mission continued to expand along with the conflict. As the UN notes on its website report on the mission twice in two sentences "[t]he mandate was later extended to Bosnia and Herzegovina to support the delivery of humanitarian relief, monitor 'no fly zones' and 'safe areas.' The mandate was later extended to the former Yugoslav Republic of Macedonia for preventive monitoring in border areas." This continuing mandate expansion required more and more resources that were not available.⁷⁵⁰ Annan's idea that just getting in there was better than doing nothing at all may be correct, except that just getting in there creates the perception that something is being done, but does nothing to affect the reality. Because of the continued lack of resources, UN forces were being spread thinner and thinner and the situation continued to get worse in the former Yugoslavia until NATO (and PSCs contracted by the UN, NATO, and the U.S. stepped in).

NATO initially provided air support for the UNPROFOR mission in Bosnia in order to protect civilians and UNPROFOR forces from attacks by Bosnian Serbs firing on civilians into the city of Sarajevo and in Gorazde, but ended up taking over the mission when indications that a limited mandate would restrict NATO's ability to provide meaningful protection. NATO's bombing campaign began in an attempt to stop and prevent attacks on civilians in or around Gorazde, Sarajevo, and the six UN protected areas (UNPAs), which had been increasingly attacked by Bosnian Serbs beginning in

⁷⁵⁰ Not only were authorized troop numbers not being met, but equipment and other resources were in short supply, and to top it all off, UNPROFOR was underfunded with many member states in arrears on their assessments. The UN's intervention was a recipe for disaster (which occurred in the form of mass atrocities on civilians months later in Gorazde and Srebrenica). *See* Information, "UNPROFOR Background."

March 1994.⁷⁵¹ Because NATO's early involvement took place at UN request, there was concern that UNPROFOR would be targeted for NATO's actions, that is, UN personnel would be attacked because of NATO's bombing of Serb positions. As 1994 was drawing to a close, and despite repeated promises of a cease-fire by all sides, hostilities continued, and in fact, continued to worsen. The culmination and extent of the serious nature of the conflict was brought to the world's attention when one of the UN protected "safe areas" in Srebrenica was taken over by Bosnian Serbs and the Dutch contingent of around 400 UN peacekeepers watched as more than 8,000 Muslim men and boys were marched to their deaths in a move of deliberate ethnic cleansing.

⁷⁵¹ There was resistance to allowing NATO to support UNPROFOR through air support, since many believed that the battle had to be won through political means and on the ground through physically stopping soldiers from committing atrocities; however, situations such as Bosnian Serbs committing ethnic cleansing against Muslims in Srebrenica led to a more liberal approach to using air power to stop the predominantly Serb aggressors. "[T]he Security Council adopted resolution 824 (1993) of 6 May, in which it declared that, in addition to Srebrenica, Sarajevo and other such threatened areas, in particular the towns of Tuzla, Zepa, Gorazde, Bihac and their surroundings, should be treated as safe areas by all the parties concerned. The Council further declared that in those areas armed attacks must cease, all Bosnian Serb military or paramilitary units must withdraw and all parties must allow UNPROFOR and the international humanitarian agencies free and unimpeded access to all safe areas." *See Ibid.*

It is generally agreed by peacekeeping analysts and researchers, including the UN, that the UN's efforts in Bosnia were an overall failure.⁷⁵² The various cease-fires and peace plans which had been agreed to by all sides never amounted to much as fighting continued throughout UNPROFOR's tenure from 1991–1995. Humanitarian assistance was difficult to provide because aid agencies, such as UNHCR, WFP, UNICEF, WHO, the International Organization for Migration (IOM), ICRC, and donor organizations had a difficult time accessing many areas where victims needed help, either because the areas, the aid workers themselves, or UNPROFOR peacekeepers were under attack. Although lives were saved through the use of safe areas, it could be argued that the ineffectiveness of the UN to halt the violence more effectively led to a prolonging of the war, ended only by aggressive air strikes by NATO, which forced the Bosnian Serbs to the Dayton Accords in November 1995. The UN was unable to resolve critical issues, e.g., geographical boundaries, ethnic divisions, or recognition of warring groups (such as Republika Srpska). Lack of resolution on some of these fundamental issues led to dissatisfaction of all parties and seemingly only prolonged the conflict, or at least held it at bay, only to be interrupted by horrific scenes like the massacre at Srebrenica or the

⁷⁵² See, for example, Steven L. Burg and Paul Shoup, *The war in Bosnia-Herzegovina : ethnic conflict and international intervention* (Armonk, N.Y.: M.E. Sharpe, 1999). Burg and Shoup discuss the historical background and details of the war, as well as provide an excellent overview of the dilemmas of intervention – many of which were known prior to ever sending UN forces into the former Yugoslavia. See also, Stedman, Rothchild, and Cousens, *Ending civil wars : the implementation of peace agreements*: 50–51. Stedman, et al code peacekeeping efforts in the former Yugoslavia as a partial success, not because the peacekeepers ended the violence—in this regard they failed—but because they stayed until a peace agreement was in sight. The two variables they used to determine success or failure were: “(1) whether large scale violence was brought to an end while the implementers are present; and (2) whether the war is terminated on a self-enforcing basis so that the implementers can go home without fear of the war rekindling.” *Additional resources include*, Bellamy, Williams, and Griffin, *Understanding peacekeeping*: 168; Secretary-General of the United Nations Kofi A. Annan, “Address of the Secretary-General to the UN General Assembly,” (New York: UNGA, 20 September 1999). Annan outlined a number of areas where the UN, and specifically the UNSC, failed: there was a lack of political will on the part of the SC; not enough resources were allocated to protect the safe areas—there was a lacuna between mandate and means; misunderstanding/miscommunication with regard to ROE; problems with understanding the necessity to be *partial* (not *always* impartial) when halting aggression under Chapter VII (see also Annan's discussion on neutrality v. impartiality in the Ditchley Park speech on intervention, 1998); and finally, that the UN had serious institutional and doctrinal failings. *Finally, see*, Howard, *UN peacekeeping in civil wars*. Howard codes Bosnia as a failure for the UN and notes that the UN was not a learning organization, failing to connect the mandate with soldiers with actual events—headquarters (and the UNSC) was not able to properly appraise the situation and respond accordingly. There are many more resources that support the notion that UNPROFOR was a failure; however, of primary importance here is that UNPROFOR *did fail* to protect civilians from violence; the UN and the international community did not provide *human security*, it took NATO and military force to accomplish that aim.

shelling of Gorazde. Divisions remained based upon ethnic and un-agreed upon geographical boundaries; cease-fires did little to appease any of the parties to the conflict, and UNPROFOR peacekeepers were able to do little more than stand by or retreat in the face of overwhelming force. “UNPROFOR’s nature as a highly dispersed and lightly armed peace-keeping force that was not mandated, equipped, trained or deployed to be a combatant” prevented real protection for civilians under attack.⁷⁵³ Had the UN been able to back its PoC mandate and protect the safe havens through the legitimate and efficient use of force, genocide may not have been one of the horrors of this war. In this case, NATO proved pivotal in providing a capable military force that ultimately brought belligerents to the bargaining table and a lasting (if tenuous) peace. Cooperation between the UN, NATO, the U.S., NGOs, and PSCs was critical to any eventual success claimed. Only PSCs and UN peacekeepers will be reviewed here.

2. Role of PSCs

MPRI and DynCorp are two companies who played major roles in the conflict and subsequent stabilization efforts in the former Yugoslavia. Both served as replacements for the UN Protection Force (UNPROFOR), which was part of the UN’s move toward the use of coalitions, regional organizations, and the increased use of policing and security sector reform (SSR) to reinforce the rule of law and protect human security. In 1995 the UN had three military officers and 2,000 civilian police—IFOR brought more than 20,000 U.S. military personnel and the capabilities of three massive U.S. military contractors, DynCorp, MPRI, and BRS (predecessor to KBR).⁷⁵⁴ MPRI provided advising and consulting to the Croatian Army (HV) prior to its successful offensive, Operation Storm, into Bosnian Serb-held territory. MPRI also provided 45 security professionals to monitor the border with Bosnia-Herzegovina (BiH) and helped assist in Croatia with admission to NATO’s Partnership for Peace program. DynCorp provided police and police trainers to the UN for BiH and the entire Balkan region under

⁷⁵³ Information, “UNPROFOR Background,” website, www.un.org.

⁷⁵⁴ Eric George, “The Market For Peace,” in *From Market for Force to Market for Peace: Private Military and Security Companies in Peacekeeping Operations*, ed. Sabelo Gumede (Pretoria: Institute for Security Studies, 1 November 2011), 25.

the UN's International Police Task Force (IPTF) program. BRS provided logistics and support with a contract valued at more than \$546 million (USD).⁷⁵⁵

Table 11. Pros and Cons of PSC use in Bosnia-Herzegovina

Pros	Cons
Adherence to Contracts	<i>Adherence to Contracts</i>
Cost	<i>Cost</i>
Legitimacy	<i>Legitimacy</i>
Human Security and Human Rights	<i>Human Security and Human Rights</i>
<i>Effectiveness</i>	Effectiveness
<i>Speed and Flexibility</i>	Speed and Flexibility
Public Relations	<i>Public Relations</i>

Note: Bolded and italicized areas identify whether stronger as a pro or as a con.

3. Role of International Peacekeepers

Peacekeepers' role in this multi-ethnic, multi-national, multi-lateral conflict was fundamentally one of PoC, a task that UN peacekeepers failed to effectively do.⁷⁵⁶ The idea of "robust" peacekeeping and intervention was fairly new to UN peace operations and many at various levels misunderstood the mandate. To what extent did "robust" peacekeeping mean that peacekeepers use force only in self-defense? Did self-defense include defense of the mandate or only of the peacekeepers themselves? The UNGA and the UNSC wrestled with questions like these which had a direct effect on ROE on the ground while the conflict was ongoing. Moreover, the intensity of the conflict and the

⁷⁵⁵ Ibid.

⁷⁵⁶ The massacres in Srebrenica, Bihac, and in and around Sarajevo, as well as indiscriminate shelling of cities by the Bosnian Serbs (e.g. Gorazde) are evidence of the inability of UN peacekeepers to protect civilians from known aggressors (and spoilers to the peace process). As Bellamy, Williams, and Griffin state that: "...the safe-areas policy (and 'wider peacekeeping' more generally) was badly conceived because UNPROFOR, and the Dutch battalion in Srebrenica in particular, did not have the means to accomplish their objectives." Bellamy, Williams, and Griffin, *Understanding peacekeeping*.

consequences of failure were drastically underestimated by the Security Council, so the urgency to send the authorized troop levels was not existent. Consequently, the severity and far-reaching effects of mishandled attempts at peace by the UN were not fully realized until years later.⁷⁵⁷ Poor planning, insufficient resources and troops, incompetence, misunderstanding of the conflict, and lack of political will are all part of what made the UN's initial role in the Balkans a failure, or at least, a failure for human security.⁷⁵⁸

4. Use of PSC Pros and Cons

a. Adherence to Contracts

- **Pro**

PSCs such as MPRI and DynCorp International performed exceptionally well under their contracts and both companies experienced massive growth following their contracts in the Balkans. MPRI was initially contracted by the U.S. State Department to serve as border monitors under UN sanctions against Serbia. They were subsequently hired by the Republic of Croatia to advise the Croatian military on becoming a professional military force.⁷⁵⁹ The idea was that, developed as a professional military force, the Croatian Army (HV), along with the Croatian National Guard (ZNG), would be able to better protect Croatian citizens. Bound by a 1991 UN arms embargo which included proscriptions against military training and advising (an international embargo to which the U.S. signed on to in the SC), MPRI provided “classroom instruction in democratic principles and civil-military relations to officers previously

⁷⁵⁷Burg and Shoup cover the Bosnian conflict in great detail in their book, outlining many of the problems identified in hindsight. Burg and Shoup, *The war in Bosnia-Herzegovina : ethnic conflict and international intervention*.

⁷⁵⁸Numerous resources cite the UN mission in the Balkans a failure for the reasons stated (*see* citations at the end of this note); however, two things stand out from a review of the literature: 1) lack of political will to help through provision of resources and troops; and 2) failure to clearly state and ensure understanding of ROE. *See, for example*, Howard, *UN peacekeeping in civil wars*: 189–90; Biermann and Vadset, *UN peacekeeping in trouble: lessons learned from the former Yugoslavia: peacekeepers' views on the limits and possibilities of the United Nations in a Civil War-like conflict*; Jett, *Why peacekeeping fails*; Alex J. Bellamy and Paul Williams, *Peace Operations and Global Order* (New York: Routledge, 2005).

⁷⁵⁹ Singer, *Corporate Warriors*: 125.

accustomed to the Soviet model of organization” as part of the Democratic Transition Assistance Program (DTAP), begun in April 1995.⁷⁶⁰ Following MPRI’s training, the Croatian Army launched an offensive, “Operation Storm,” that pushed the Serbs back, regaining all but four percent of the land previously taken; additionally, they now came to occupy twenty percent of Bosnia.⁷⁶¹ Although it is still in dispute whether or not MPRI provided military assistance or training, in violation of the embargo, what is not in dispute is that the Croatian Army had been transformed from a “ragtag militia into a highly professional fighting force” from the time MPRI arrived in January 1995 to when Operation Storm took place in August 1995.⁷⁶² MPRI did fulfill their contracts with the U.S. State Department and the Republic of Croatia and many credit their instruction and advising with the Croatians’ successful operation against the Serbs. This success earned them future high profile contracts in the region, beginning with the Train and Equip program designed to help build the Bosnian Federation military; this contract was valued at around \$50 million.⁷⁶³ The defensive instruction provided by MPRI ultimately saved lives by enabling the Croatian Army to defend itself, its territory, and its citizens. As per this example, MPRI did adhere to its contracts which ultimately enabled protection of human security.

⁷⁶⁰ Marco Mesic, “Croats Trained by Pentagon Generals,” *Balkanica, Journal of the Institute for Balkan Studies of the Serbian Academy of Sciences and Arts*. 27(May 1996). Cited in Singer, *Corporate Warriors*: 126.

⁷⁶¹ Singer, *Corporate Warriors*.

⁷⁶² Ibid. See also Paul De La Garza and David Adams, “Military Know-How Finds Niche--And Some Critics,” *St. Petersburg Times* 3 December 2000.

⁷⁶³ Singer, *Corporate Warriors*: 127–28.

DynCorp was able to provide civilian police (CIVPOL) and UN police force monitors to BiH enhancing human security and protecting human rights within the towns and villages. CIVPOL and the police force monitors made up a large proportion of the capability for PoC, supporting the UN mandate.

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MPRI may have overstepped the bounds of its contracts with Croatia in direct violation of the UN embargo against providing arms and military training. It is commonly believed that MPRI did much more than “classroom instruction” with the HV for them to have performed as well as they did against well-trained Krajina Serbs during Operation Storm.⁷⁶⁴ Perhaps because the Serbs had been aggressors and had violated ceasefires in the past (as well as having committed human rights violations), it is not commonly promoted that the HV was itself violating the UN ceasefire, tacitly supported by the U.S.⁷⁶⁵

Many of the police officers DynCorp used were either trained as police officers in the U.S. or were currently serving in the law enforcement community in the U.S. when they were offered positions with DynCorp under the UN’s civilian police program (the IPTF). Their training did not necessarily prepare them for employment as police force monitors in Bosnia and the Balkans. Unlike peacekeeping missions where there is an international standard of training for peacekeepers (see, for example, PET and ACOTA), “corporate standards” do not have the same standards of accountability that

⁷⁶⁴ Ibid., 126–27.

⁷⁶⁵ Ibid., 126.

national military representatives serving in peacekeeping roles are required to uphold.⁷⁶⁶ Although there are corporate training programs that have international recognition, their graduates do not have the same jurisdictional oversight to which TCCs' graduates are subject.

b. Cost

• **Pro**

Costs for both MPRI's and DynCorp's contracts were borne by Croatia, the UN, the U.S., Saudi Arabia, Kuwait, Brunei, United Arab Emirates (UAE), and Malaysia from the beginning in late 1994 through 1996 and beyond. (MPRI remained in the Balkans and retains numerous contracts from various sources including DoS, DoD, and NATO countries.) Bosnia's Train and Equip program, primarily run by 175 MPRI employees was contracted at \$50 million, but this did not include the \$100 million in arms to Bosnia's military. However, in this case, cost was neither a significant pro nor a significant con. If MPRI's role in Croatia's success in Operation Storm, a pivotal point in the war in the former Yugoslavia, then it could be argued that MPRI's cost of somewhere between \$50 million and \$100 million was well worth the price if their involvement brought parties to the Dayton Accords, resulting in peace and human security (ended the scourge of war).⁷⁶⁷

⁷⁶⁶ The "standard" for training peacekeepers is one where there are guidelines for training peacekeepers, but the UN does not conduct the training. Nations are responsible for training their own peacekeepers in accordance with UN standards. There are, however, UN-sanctioned training courses, such as the African Contingency Operations Training and Assistance (ACOTA) program and the UN's own Policy Evaluation and Training (PET) division which develops, coordinates, and delivers standardized training to UN members and external partners. See www.state.gov/p/af/rt/acota/index.htm and www.un.org/en/peacekeeping/about/dpko/. In the United States, the Uniform Code of Military Justice (UCMJ) applies to active duty service members serving in any capacity; however, in the majority of cases, the UCMJ does not apply to civilian contractors or PSC employees (as covered in detail in this dissertation). Similar military justice regimes exist in every UN TCC.

⁷⁶⁷ There are certainly parallels that can be drawn between MPRI's involvement in BiH and EO's involvement in both Sierra Leone and Angola; however, the similarities end there. EO, as one of the first PMCs/PSCs, was an anomaly not easily accepted by the UN, and resultantly, for myriad reasons, there was poor coordination between the UN and EO and zero collaboration. Had EO had the support of the international community (or coalitions of nations) that MPRI or DynCorp enjoyed in BiH, the extended conflicts in Angola and Sierra Leone (effectively ended at the termination of EO's contracts) could possibly have ended much sooner, saving hundreds of thousands of limbs and lives.

- Con

If MPRI was merely conducting classroom instruction on democratic transitions and principles, then \$50 million seems a high price to pay for 175 former military instructors, even if many of them were retired U.S. generals. Although cost was not a major factor in the hiring of either DynCorp or MPRI, effectiveness and capability was. Both MPRI and DynCorp were able to deploy their contracted employees quickly and efficiently in order to fill the requirements of their contracts. However, just showing up on time and with the right numbers of people is not always enough. In the case of DynCorp, there were questions of training and preparedness for missions in the Balkans and war. Even though the majority of the police force monitors hired by the UN were Western-trained police, they were not trained in international operations. In this case, the additional cost of training may have been well worth the price, had the UN been able to avoid the loss of legitimacy, credibility, and forward momentum that resulted from UN police and soldiers engaging in SEA and TIP. The cost incurred may not have been directly translatable to dollars, but the UN, the U.S., and peacekeeping and intervention in general, suffered from the criminal actions of contracted employees. The question will ever remain whether or not this sort of thing could happen again, and if it is really worth it to privatize certain aspects of peace.

Table 12. Bosnia-Herzegovina Peacekeeping Costs⁷⁶⁸

ORGANIZATION	TIME FRAME	\$ COST PER YEAR	TOTAL OPERATION COST	RESULT
MPRI	1994–1997	Approx. \$50 Million ⁷⁶⁹	Contracts valued at >\$100 Million	<u>Contract Success</u> -Croatian forces defeated Serb forces decisively after MPRI “training” (it has been argued that MPRI conducted combat training, similar to the training provided by PMCs such as EO). ⁷⁷⁰ -MPRI established itself as a credible and experienced military consultant firm. ⁷⁷¹
UN (UNPROFOR) UNCRO	1992–95 March-	\$1.2 Billion	\$4,617 Billion (1992–95—includes three	<u>Failure</u> -Spread too thin. -Insufficient

⁷⁶⁸ Cost table adapted from Barlow, *Executive Outcomes: Against All Odds*: Appendix B. Figures within table are readily available and have been compiled from numerous sources, *see for example*, Information, “UNPROFOR Background.”

⁷⁶⁹ Accurate figures are hard to come by; estimated figure provided has been derived from multiple sources. Exact figures on the contract are private information between Republic of Croatia and MPRI. Sources include annual reported income/profit from 1995–1997 and figures from the following scholarly journals/papers/books: Fredland, “Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies.”; Jakkie Cilliers and Ian Douglas, “The Military as Business--Military Professional Resources, Incorporated,” in *Peace, Profit, or Plunder?: The Privatisation Of Security In War-Torn African Societies*, ed. Jakkie Cilliers and Peggy Mason (South Africa: Institute for Security Studies, 1999); Emma Holager, “The impact of the private security industry on peace-building efforts in Africa: An assessment of Executive Outcomes, MPRI and DynCorp” (Stellenbosch University, March 2011).

⁷⁷⁰ “Indeed, the commonly accepted belief is that the MPRI operation started in in October 1994, rather than later in January 1995, and included training not only in democratic principles, but also in basic infantry tactics (such as covering fields of fire and flanking maneuvers), and medium-unit strategy and coordination as well.” Singer cites Halberstam, 335–336; Singer, *Corporate Warriors*: 127.

⁷⁷¹ Various sources cite the positive performance of MPRI in Bosnia; however, two that discuss MPRI specifically and in detail include, Shearer and International Institute for Strategic Studies., *Private armies and military intervention*; Douglas, “The Military as Business--Military Professional Resources, Incorporated.”

ORGANIZATION	TIME FRAME	\$ COST PER YEAR	TOTAL OPERATION COST	RESULT
UNPREDEP UNPF-HQ	December 1995		follow-on operations)	resources. -Srebrenica massacre. -Security Council ineffective, slow, & out of touch with realities in Bosnia.
DynCorp	1993–1996	\$Unknown	\$Unknown	<u>Partial Failure</u> -TIP & SEA crimes undermined legitimacy. -Well-trained police protected thousands.
NATO	1993–1995	Approx. \$1–2 Billion	>\$15 Billion ⁷⁷²	<u>Partial Success</u> -Airstrikes halted Serb aggression & led to Dayton Accords. UN failure led to perception that Western military intervention was only viable force. -Reluctance to use ground troops resulted in more civilian casualties that could have been stopped with soldiers.

⁷⁷² Steven R. Bowman, “Bosnia: U.S. Military Operations,” in *Reports for Congress* (Congressional Research Service, 2003); Tomás Valásek, “NATO at 50,” in *Foreign Policy in Focus (FPIF)* (Washington, DC: Institute for Policy Studies, 1 March 1999). The NATO mission in Bosnia was spurred, financed, and led primarily by the U.S with the support of the UN and EU following epic failures by both of them to bring peace. As Brigadier General John S. Brown, Chief of Military History wrote, “Efforts by the United Nations and the European Union were ignored, cease-fires were not honored, civilians were massacred, and entire villages were destroyed.” R. Cody Phillips, *Bosnia-Herzegovina: The U.S. Army’s Role In Peace Enforcement Operations 1995–2004*, CMH pub (Washington, DC.: Center of Military History, 2005).

c. *Legitimacy*

- Pro

Legitimacy pros and cons will not be covered in great detail here, as the primary pros and cons of legitimacy covered earlier in greater detail can be projected and apply to this case. However, the pros for the use of PSCs in BiH (alongside the UN and NATO) were that they provided necessary security functions for buildings, NGO and IGO workers, and resupply/logistics, where the use of ISAF, NATO, or UN troops would have pulled needed resources from combat capability. Simply put, PSCs earned legitimacy by adhering to contracts and conducting the roles they were paid to perform effectively, and as many hold, efficiently, that is, using resources cost-effectively in a manner that affects fulfillment of assigned roles and missions.⁷⁷³ There is also the idea that PSCs, in some regards, were working multilaterally alongside other forces to affect peace and security. It is this multilateral working together that reinforces legitimacy according to Heinze,⁷⁷⁴ and when combined with other factors, can aid in legitimizing PSCs. It was this legitimacy (and the fact that U.S. troops were not on the ground in combat or serving in the “protective” security role that PSCs had adopted) that helped increase U.S. and NATO reliance on their use.

- Con

As is covered in greater detail in this case study and elsewhere in this dissertation and through numerous examples of PSC failure, the use of PSCs in BiH is one of the most commonly and broadly cited examples of PSC failure due to human rights abuses, including SEA and TIP, as well as waste, fraud, and lack of accountability. Because of the ubiquitous nature and the sheer number of allegations against PSCs in BiH, legitimacy was not earned. In fact, no amount of effectiveness could overcome and balance out the damage done to the public perception of PSCs in C/PC environments. Until Blackwater’s well-publicized abuses in Iraq and Afghanistan, PSCs such as DynCorp led the headlines with scandals such as the contractor-run prostitution ring.

⁷⁷³ Bruneau, *Patriots For Profit : Contractors And The Military In U.S. National Security*, 32–33.

⁷⁷⁴ Heinze, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention*, 117–20.

Regardless of the damage to legitimacy and the public's perception of PSCs, Americans (primarily) were still reticent to send U.S. troops on the ground to fight in BiH. The "Somalia effect" still lingered, and the effectiveness of PSCs, though not sufficient to produce real credibility, outweighed the political will to use the numbers of ground troops necessary to provide the protective and security support that UN military troops and Bosnian police could not muster.

d. Human Security and Human Rights

- Pro

MPRI and DynCorp, two of the largest PSCs involved in the conflict in the former Yugoslavia, were sent to support UN and NATO efforts in support of the mandate, which was primarily to protect civilians and help ensure human security and human rights.

However, in DynCorp's case, an SEA scandal by a few employees had deeply negative effects on both the company, the U.S. (DynCorp is a U.S. company), and the UN. PSCs, and contractors in general, lost a great deal of credibility when the now famous SEA scandal involving a prostitution ring, buying and selling sex slaves (including underage girls), and TIP came to light, such as is portrayed in the movie "The Whistleblower."⁷⁷⁵ Scandals such as these detracted from the mission and certainly affected not only the companies' abilities to perform their duties, but consequently added scrutiny, which can slow operations and reduce effectiveness. SEA by contractor employees (or UN peacekeepers for that matter) also has the effect of producing distrust among the local population, the very people who are supposed to be helped through their intervention. Therefore, it is essential that PSCs and contractors in peace support, C/PC, and humanitarian operations take these abuses seriously and work with national and international authorities in ending SEA and other criminal acts by contractor employees. PSCs and the trade organizations that support them, e.g. ISOA or BAPSC, have committed diverse resources to prevent this sort of bad behavior, such as member training

⁷⁷⁵ Larysa Kondracki, "The Whistleblower" (USA: Samuel Goldwyn Films, 2010).

workshops, annual summits, and the creation of codes of conduct to which members must agree to adhere.⁷⁷⁶ Working closely with UN working groups, governments, the ICRC, IPI, IPA, and other groups focusing on improving peace operations, these trade organizations have improved vetting and training of their employees, have instituted codes of conduct required for membership in their associations, and have agreed that clear regulation and transparent contracts make for better integration with other agencies and performance, improving effectiveness.

- Con

MPRI's involvement with the HV, though claimed to only be part of democratic transition training (the Democratic Transition Assistance Program (DTAP)), seemed to "professionalize" the HV within a matter of months to the point where there are not many who believe that MPRI did not do a little more than "classroom instruction." Ken Silverstein puts it well in his article on PSCs:

*No country moves from having a ragtag militia to having a professional military offensive without some help. The Croatians did a good job coordinating armor, artillery and infantry. That's not something you learn while being instructed about democratic values.*⁷⁷⁷

Whether or not MPRI overstepped their bounds on their contract is in dispute; however, what is not in dispute is that just after receiving "instruction" from MPRI, the HV broke the UN ceasefire and launched an offensive against the Krajina Serbs creating 170,000 refugees. There were also numerous reports of human rights violations which include the murder of elderly Serbs who were unable to move out ahead of the offensive. Based upon their actions, the Croat commanders who launched the offensive were indicted by the ICTY and prosecuted for crimes against humanity.⁷⁷⁸

⁷⁷⁶ The workshops and summits that I have attended are quite well run, with a large variety of subjects and broad scope of discussion by industry professionals, NGOs, IGOs, IOs, and government employees. Panel discussions focus on topics that range from contractor behaviors, recent developments, and current events to regulatory structures, contracting laws, and accountability.

⁷⁷⁷ Retired U.S. Marine Colonel working as a military researcher, *quoted in* Ken Silverstein, "Privatizing War: How Affairs of State are Outsourced to Corporations Beyond Public Control," *The Nation*, 7-28/8-4 1997 1997.

⁷⁷⁸ Singer, *Corporate Warriors*, 126.

DynCorp's response to the prostitution ring, SEA, and TIP was to fire the offending employees and whisk them out of the country; this included the whistleblowers, Kathryn Bolkovac and Ben Johnston, who reported the sex crimes that were taking place. David Isenberg wrote an article on PSC SEA for the *Asia Times* in which he describes how there was no accountability either by the perpetrators or by DynCorp:

*The CID began an investigation, but quickly determined that the American military did not have jurisdiction over UN contractor employees. Alerted by CID, the Bosnian police began an investigation, but mistakenly believed that they, too, lacked jurisdiction to arrest UN Task Force contractor employees. By the time the Bosnian police did move to make arrests, the employees in question had been transferred beyond the reach of local authorities. Like Bolkovac, Johnston was fired. His supervisors claimed that he had discredited the company by bringing unsubstantiated charges against his coworkers and that he had "brought discredit to [Dyncorp] and to the U.S. Army."*⁷⁷⁹

Of the nine employees suspected of committing the criminal acts, including rape, torture, and TIP, seven were fired and quickly transported through Germany (for the Army's cursory investigation) and back to the U.S., never to be prosecuted for their crimes. In this case, human security and human rights were violated without any real punishment or accountability. Had this event signaled the need for real change and created the impetus and mechanisms of accountability, it is possible that the ethnic cleansing, rape, and SEA that followed in Kosovo a few years later would have been mitigated. Despite DynCorp's behavior in the Balkans, the company continues to receive contracts from the U.S. State Department in peace support operations, such as Kosovo, Somalia, Columbia, Sierra Leone, Afghanistan, and Iraq. In fact, DynCorp is now under an umbrella contract with the State Department—a means of contracting which greatly reduces the possibility of competition.⁷⁸⁰

⁷⁷⁹ David Isenberg, "Sex and Security in Afghanistan," *Asia Times* 6 October 2009.

⁷⁸⁰ Chris Tomlinson, "U.S.: DynCorp Hired for Somalia Peacekeeping," *Forbes* 7 March 2007. For a detailed discussion on other DynCorp interests and business activities, see also Holager, "The impact of the private security industry on peace-building efforts in Africa: An assessment of Executive Outcomes, MPRI and DynCorp."

e. *Effectiveness*

- Pro

MPRI was extremely effective in “professionalizing” the Croatian Army (HV). As was discussed earlier, their actions were pivotal in the Croatian military’s offensive against the Krajina Serbs—an event which was not only the “first major victory of the war against the Serbs,” but could be considered the turning point in the war.⁷⁸¹ Along with the NATO air strikes, Operation Storm is credited with reversing Serbian gains and strengthening Croatia’s position at the Dayton Accords.

DynCorp was effective in their ability to provide Western-trained police as police force monitors under the UN’s International Police Task Force (IPTF) program. Actions by employees marred their reputation and created distrust of contractors in general by the Bosnian public. Following the actions of employees of the company, DynCorp developed training similar to the training required of peacekeeping soldiers: pre-deployment training as well as standardized in-mission training.⁷⁸² DynCorp’s credibility never fully recovered from the actions of a few employees, but the majority of police force monitors did excellent work and ensured the safety of thousands of Bosnians during their tenure.

- Con

MPRI’s effectiveness in training the HV was not without its criticisms. One of the more negative of these (which has not been substantiated but must be mentioned here since misperception can have an effect on pros and cons) is that MPRI was more than just an “adviser” or “consultant” to the HV, and acted more in the capacity

⁷⁸¹ Singer, *Corporate Warriors*, 126.

⁷⁸² For a discussion on recommended training for peacekeeping soldiers and some of the obligations of TCCs, e.g. SOFAs, MOUs, etc., which could be incorporated into contracts with PSCs, see Vanessa Kent, “Protecting civilians from UN peacekeepers and humanitarian workers: Sexual exploitation and abuse,” in *Unintended Consequences of Peacekeeping Operations*, ed. Cedric de Coning and Ramesh Thakur Chiyuki Aoi (New York: United Nations University Press, 2007), 60–63.

of military planning and training troops for combat.⁷⁸³ If these allegations are correct, then it could be said that MPRI assumed a responsibility which should have fallen to the coalition of forces (NATO) and military troops. This overstepping of the boundaries of responsibility by PSCs (whether MPRI did or did not overstep their bounds) illuminates one of the strongest arguments (presented earlier) against the use of PSCs in international conflicts, and that is that if states are willing to increasingly give up control of elements of combat preparations, planning, or training, where does it end? David Shearer notes the crux of this argument in his Adelphi Paper 316:

*EO has been directly involved in combat; MPRI claims to work only in a training capacity. A senior MPRI employee compared the two companies thus in July 1997: "When a fire is raging a government may call in EO. But when the fire has been put out, we...install the necessary precautions to ensure it won't start again." Others believe the distinction to be less clear-cut. A U.S. State Department official notes, "The only difference is that MPRI hasn't pulled the trigger—yet."*⁷⁸⁴

f. Speed and Flexibility

- **Pro**

MPRI was hired by the U.S. State Department initially to provide border monitors in support of UN sanctions against Serbia in 1994. However, during the same timeframe they were also contracted by the Republic of Croatia to help them transition their army (HV) into a more professional force.⁷⁸⁵ Within months of signing contracts with the Croatian Ministry of Defense, MPRI was on station and providing assistance to Croatia toward “strategic long-term capabilities” and establishing the Democracy Transition Assistance Program (DTAP) which was meant to transition the

⁷⁸³ A French commander commented on MPRI’s presence in the former Yugoslavia that “If they are not involved in military planning, then what are they doing there? Are we supposed to believe Sewall [former General and head of MPRI at the time] and his people are tourists?” Ken Silverstein and Daniel Burton-Rose, *Private warriors* (New York: Verso, 2000), Ch. 4, “Mercenary, Inc..”

⁷⁸⁴ Shearer and International Institute for Strategic Studies., *Private armies and military intervention*. Cited in Singer, *Corporate Warriors*, 119.

⁷⁸⁵ Singer, *Corporate Warriors*, 125.

Soviet-trained officers to a more Western model of military organization. MPRI was able to quickly assist the HV into becoming a professional Western-style military which led to massive successes in Operation Storm during which Croat forces led a sophisticated assault against the Krajina Serbs, defeating them handily, securing the entire Serb territory within a week.

DynCorp was responsible for hiring many of the UN police force monitors under the CIVPOL program, IPFT, and through extensive networks throughout the U.S. was able to rapidly fill the UN's requirements for police monitors in BiH. Ultimately, DynCorp's contract expanded to include transitional police monitors and DynCorp retains contracts in the Balkans to this day assisting with security and police training. Both MPRI and DynCorp provided the services they were contracted to perform in quick fashion and achieved their objectives in months in a manner that the UN was unable to accomplish over a four year time-span before NATO took over.

- Con

MPRI and DynCorp both have the same interest in accomplishing their assigned mission: profit. Speed and flexibility may be proclaimed as key components to their advantage over government or international intervention, but they do not retain the same advantages of credibility or international support that the UN or other international or regional organizations enjoy. Deploying quickly as an agent of the U.S. or NATO or the UN is not the same as military representatives deploying to support a nation in trouble. Additionally, costs of monitoring and evaluation have to be considered, especially when the firms that are being hired to conduct services are regularly reported

for overcharging, overstaffing, or equal opportunity violations, such as occurred with Brown and Root Services (BRS) in the Balkans.⁷⁸⁶ As Peter Singer states,

⁷⁸⁶ Ibid., 140–41.

The conclusion that can be drawn from these episodes is that although the firm's mission is certainly not to oppose the goals of American policy, sometimes concerns for the corporate bottom-line have led to make [sic] business decisions that are not always so clear-cut in a political sense.⁷⁸⁷

Speed and flexibility comes at a cost which has been evidenced by contracting failures in contingency operations wherever they are supported by private contractors. In the U.S. example, more than \$30 billion has been lost to waste, fraud, and abuse by contractors in the wars in Iraq and Afghanistan because contracting was not well managed.⁷⁸⁸ If speed and flexibility are essential features for success in any operation, then proper preparedness dictates that the groundwork for contracting be in place well before deploying private agents to do the work normally (or previously) done by government or military forces.

g. Public Relations

- **Pro**

MPRI was extremely effective with its PR in Bosnia. Founded in 1987 by eight former U.S. military senior officers, MPRI got its biggest break in its contracts with Croatia in 1995 in the Bosnian War. The company's involvement instructing the Croatian Army's democratic transition indirectly (or directly, depending upon who one asks) led to the overwhelming success of Operation Storm against the Krajina Serbs.⁷⁸⁹ MPRI's discretion and control of information allowed them to reap the benefits of Croatia's massive success against the Serbs and into Serbian-occupied territory, while also allowing them to disavow that they had conducted "military training," which would have been a violation of the UN embargo (an embargo to which the U.S. had agreed). MPRI's contracts (primarily with the U.S. government) increased

⁷⁸⁷ Ibid., 141–42.

⁷⁸⁸ Neil Gordon, "Commission on Wartime Contracting Final Report: A Decade's Lessons on Contingency Contracting," (Washington, DC: Project On Government Oversight, 31 August 2011). *See also* Oversight, "Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors."

⁷⁸⁹ MPRI denies conducting any military or combat training which would have violated the UN embargo.

significantly after the Balkan crisis and MPRI continues to be one of the most successful PSCs in the business.⁷⁹⁰

- Con

DynCorp was not so fortunate with their PR efforts in the Balkans. Far from taking any sort of corporate responsibility for their employees' actions, DynCorp quickly fired 7 employees who were accused of running a prostitution ring. Once the employees were fired, they were returned to the U.S. where they did not face charges for the sex crimes they allegedly committed. Far from the scene of the alleged crimes, and weeks after the crimes had been allegedly committed, Bosnian local police, the UN, and the U.S. Army were unable to conduct investigations sufficient to prosecute the 7 implicated employees. DynCorp's actions appeared secretive and protective, a stance that raised more questions of their legitimacy and their ability to train and monitor Bosnian police. Associated both with the UN and the U.S., DynCorp's actions led to general mistrust of UN peacekeepers and UN-sanctioned police.⁷⁹¹

5. Summary of Case and Conclusion

Were there lessons learned from peacekeeping and the use of PSCs in the Balkans? There were certainly lessons, but whether or not they were learned is questionable; the crisis in Kosovo occurred a few years after the Dayton Accords, but in spite of international condemnation of ethnic cleansing, mass rape, and the horrors of the Bosnian War, the same crimes were once again committed while the international community slowly and initially ineffectively responded.⁷⁹²

It is clear that the UN and NATO used PSCs extensively throughout the crisis in the former Yugoslavia. What is not clear is whether or not the impact to human security

⁷⁹⁰ Singer, *Corporate Warriors*, 130–35.

⁷⁹¹ Cain, Postlewait, and Thomson, *Emergency sex and other desperate measures : a true story from Hell on Earth*.

⁷⁹² Jean-Christophe Cady, "Establishing the rule of law: the U.N. challenge in Kosovo," *Focus Strategique* No. 34 bis (June 2012).

through the use of PSCs was mainly positive or negative. This is one of the primary reasons why an investigation into the pros and cons of PSC use in peacekeeping is so critical: it cannot be said that PSCs should always be used in every case, but they should be used where they can best protect human security; the mix will be different in each intervention. Under a UN mandate, the UN will always be held responsible for the risks of any intervention (and in the court of public opinion) regardless of the mix. To believe that PSCs are not being used in support of peacekeeping now is to be naïve. The fact is, they *are* being used (as noted above in certain roles), the question is the extent to which they are being used and the manner of their use. Herein lies the critical issue: decision-making; policy guidance; limits of use; accountability; political impact, and again, there is no single right answer. To write, as many do, that the UN is just not ready to use PSCs for peacekeeping or that the mechanisms of regulation and legal accountability are not yet in place, is to be blind to the fact that the UN is already using PSCs (as has been shown in numerous reports including the UN's) in peacekeeping missions, just not as actual peacekeepers. This is the defining line. The evidence does not bear out that a clear policy exists with regard to the use of PSCs. Without a clear policy on PSC usage, the UN will head down a path very similar to the U.S. experience with PSCs in Iraq and Afghanistan: one where waste, fraud, and abuse (SEA, human rights, resources) was found to be rampant in numerous government and private reports.

Technically the UN did not use PSCs for peacekeeping in BiH; NATO acted under UN authorization and used PSCs for policing, security, and advising. When NATO entered into the crisis in the Balkans, it was made clear that U.S. soldiers would not be on

the ground fighting; this fact led to the decisions to rely heavily on air power, bombing, and NATO allies, but it also led to the massive use of PSCs to carry out policing functions, stability operations, and advising. Is this much different from the UN using PSCs for peacekeeping? Maybe not in the practical sense, but it is vastly different when the mission statements of each organization, i.e. NATO and the UN, are compared. PSCs were essential to NATO's ability to carry out its mission in BiH. Questions remain as to whether or not they overstepped their bounds in the use of PSCs and the extent to which responsibilities were handed over to companies such as DynCorp and MPRI. In the end, peace was secured and has been relatively stable since NATO took the mission over from the UN, ended the war through massive air strikes and heavily armed NATO troops, and then handed it back over to the UN.⁷⁹³ In this case, what appears to have been needed was a fast-acting, flexible, and overwhelmingly superior combat capability to end the violence and restore order. NATO accomplished this aim. PSCs claim similar capabilities but on a smaller scale.⁷⁹⁴ Although forces such as NATO can end wars (through the use of combat and aggressive force) and the UN can use peacekeeping operations to lessen

the intensity of conflicts, peacekeeping alone is not able to eliminate the cause of

⁷⁹³ The Allied Rapid Reaction Force (ARRF) was created in June 1995 and by July, The London Conference authorized massive airstrikes against Serb forces leading to the Dayton Peace Accords (DPA). IFOR succeeded UNPROFOR on 20 December 1995, and not only did green helmets replace blue helmets, but the mission was defined more robustly, allowing for a force of 50,000 heavily armed troops, heavy weapons in designated cantonments, and authorization to demobilize warring militaries of the Bosnian Federation in order to create a more secure environment. Francine Friedman, *Bosnia and Herzegovina : a polity on the brink*, Postcommunist states and nations (London ; New York: Routledge, 2004), 65.

⁷⁹⁴ See for example, the writings of Brooks, "Write a Cheque End a War Using Private Military Companies to End African Conflicts."; Spicer, *An Unorthodox Soldier*; Barlow, *Executive Outcomes: against all odds*. See also Eeben Barlow's (founder of EO) blog where he argues that the UN actually perpetuates conflict so that it can continue to sustain its massive budget and the salaries of UN officials: ———, "Eeben Barlow's MILSEC Blog," in *Eeben Barlow's Military and Security Blog*, ed. Eeben Barlow (2012).

conflict.⁷⁹⁵ What ultimately worked to create human security and stability in BiH was a vast array of support from international agencies, NGOs, regional actors (such as Turkey), private interests, and political groups working together to encourage participation in government and implement democracy rather than declaring it.⁷⁹⁶ PSCs were, and continue to be, a major part of the existing stability in BiH and all of the former Yugoslavia (as tenuous as that stability may be).⁷⁹⁷

⁷⁹⁵ This is the conclusion drawn by Jean-Christophe Cady in his article on UN peacekeeping in the Kosovo crisis. Cady, “Establishing the rule of law: the U.N. challenge in Kosovo.”

⁷⁹⁶ The Organization for Security and Cooperation in Europe (OSCE) supported in multiple ways including overseeing preparation and conduct of elections. UNHCR oversaw the return of refugees and IDPs. The Council of Europe, UNHCR, and the European Court of Human Rights had oversight of human rights provisions. The ICRC handled missing persons. The World Bank took the lead on postwar reconstruction. The EU worked to restore stability to the divided city of Mostar. Public corporations, media, the Constitutional Court, Central Bank, human rights agencies, and other international actors were coordinated by the Office of the High Representative (OHR). Friedman, *Bosnia and Herzegovina : a polity on the brink*; Stedman, Rothchild, and Cousens, *Ending civil wars : the implementation of peace agreements*: 540–41.

⁷⁹⁷ This includes Serbia and Republika Srpska, two Bosnian entities that will need to continue to work together toward a stable future, integrated more fully into Europe, and on a path toward EU acceptance. This stable path will necessarily mean continued assistance and support from the UN, NATO, the EU, OSCE, nearby nations such as Turkey, and non-governmental and private organizations, including security firms. Without this support, it is likely that BiH, Serbia, and Republika Srpska will be one filled with conflict, adversity, and renewed human insecurity. Friedman, *Bosnia and Herzegovina : a polity on the brink*.

VII. ANALYSIS OF THEMES

A. COMPARISON OF ARGUMENTS FOR AND AGAINST THE USE OF PRIVATE SECURITY COMPANIES FOR PEACEKEEPING

As General Ian Douglas, a former UN mission commander in Sierra Leone put it: 'In a perfect world, we wouldn't need them [PSCs] or want them...But the world isn't perfect'.⁷⁹⁸

The United Nations has bitterly and repeatedly discovered over the last decade, [that] no amount of good intentions can substitute for the fundamental ability to project credible force if complex peacekeeping, in particular, is to succeed.⁷⁹⁹

Mercenaries loot, plunder and sometime [sic] kill indiscriminately, leaving in their wake 'chaos, death and destruction'.⁸⁰⁰

The Good Mercenary is neither logically impossible nor psychologically implausible.⁸⁰¹

1. Pros and Cons: Arguments For and Against the Use of Private Security Companies for Peacekeeping

Specific questions were used to guide research in order to evaluate the arguments for and against the use of PSCs for peacekeeping (all types). A comprehensive review of case studies, interviews, government, academic, and institute reports, as well as a comparison of the arguments for and against PSCs in peacekeeping has been conducted. Case studies serve to provide a useful reference, or “plausibility probe” into the analysis

⁷⁹⁸ BDA Kite RCD Dangerfield, DJ Robinson, and AJI Wilson, “Private Military Companies: Options for Regulation: A Response to the UK Government Green Paper” (Cranfield University, 2002). *Cited in* Singer, “Humanitarian Principles, Private Military Agents,” 12.

⁷⁹⁹ Nations, “Report of the Panel on United Nations Peace Operations.” website, accessed 17 March 2012.

⁸⁰⁰ United Press International, “Iraq Bans Security Firms on Oil Fields,” in *UPI* (United Press International, 19 March 2012). *Cited in* Francis, “Mercenary Intervention in Sierra Leone,” 332.

⁸⁰¹ T. Lynch and A. J. Walsh, “The good mercenary?,” *Journal of Political Philosophy* 8, no. 2 (2000): 134.

presented here. The three cases are not comprehensive case studies in the sense that they serve to function solely to address the issues presented in this dissertation; they are part of the totality of sources from which inferences and conclusions have been drawn.

The available evidence finds that the only real advantage to the use of PSCs for peacekeeping is their demonstrated speed and flexibility. Other advantages or disadvantages to the use of PSCs in peacekeeping do not weigh overwhelmingly on one side or the other. As a consequence, their use must be determined based upon at least one significant factor that overrides the common notions of why or why not to use PSCs—speed and flexibility may be necessary in certain cases, but it is not sufficient. There are obviously many factors that may affect the decision to use PSCs; however, if there is one factor that stands out among them, then that factor should be used as a primary tool for determining the use of PSCs in peace support operations. Through the use of all available metrics evaluating the use of PSCs and peacekeepers, and considering all factors, one significant factor does stand out that supports the primary aim of peacekeeping; that factor is human security. Therefore, if PSCs are capable of improving human security, as defined here, then they must be considered for use by the UN in peacekeeping operations. Each of the following questions was used to guide research throughout this dissertation. Questions here are addressed in different ways and to varying degrees throughout the review of the advantages and disadvantages of PSCs in peacekeeping operations; however, each is relevant in summarizing the pros and cons and making a final determination on PSCs' impact on human security and their potential as international peacekeepers:

- 1) If state-sponsored peacekeepers are better suited for peacekeeping than private agents, what makes them better?
- 2) Is there merit to the PSCs' claim to be "better, cheaper, faster" and more flexible than UN peacekeepers?
- 3) What do the pros and cons tell us about whether or not certain peacekeeping missions or mandates may be better suited to the use of PSCs?

4) Are state-sponsored peacekeepers perceived as legitimate by the “peace-kept?” What determines legitimacy?

5) What accountability mechanisms are in place for PSCs? What accountability is in place for current UN peacekeepers? Are these regulatory mechanisms effective?

6) If force is authorized, are PSCs more efficient in its use than UN peacekeepers? Are PSCs better suited to Chapter VI or Chapter VII missions?

7) What effect does training have on peacekeeping?

8) Are peacekeepers neutral? Are peacekeepers impartial? What are the arguments for and against PSC neutrality and impartiality?

9) What are the regulatory mechanisms that hold peacekeepers accountable? If human rights violations occurred, were perpetrators held criminally accountable?

11) Was human security (narrow view) improved or degraded by peacekeepers’ presence? (That is, did violence or threat of violence to persons increase or decrease with peacekeepers’ presence?)

These questions, along with a review of case studies, interviews, government and UN documents, and the scholarly literature on the subject, directly address hypotheses presented and find that there are six fundamental areas in common for the evaluation of pros and cons of PSCs in peacekeeping:

- 1) Adherence to Contracts/Intervention
- 2) Cost/Outsourcing
- 3) Effectiveness/Speed and Flexibility
- 4) Accountability
- 5) Legitimacy
- 6) Human Security/Human Rights

A summary review of the fundamental areas, with the pros and cons of each is discussed below:

a. *Adherence to Contracts/Intervention*

- **Pro**

When Executive Outcomes (EO) received the contract to intervene in Sierra Leone in 1995, they immediately set a timetable for action. Their contracted mission was to restore the democratically-elected government headed by President Ahmed Tejan Kabbah, halt the atrocities, secure order in Freetown, and regain control of the diamond fields from the Revolutionary United Front (RUF).⁸⁰² There was no need to seek out contributors to their force as in a UN case where troop contributing countries (TCCs) must be determined and troops (turned over) before any action can occur. EO claimed a database of more than 2000 trained soldiers that could be called upon on short notice. Moreover, many of EO's soldiers were nearby, as they had just completed a contract securing peace in Angola (if only temporary). In situations where atrocities or genocide are being committed or about to be committed, time is critical and there is little time to seek out troop donations.

Once EO was called in by the NPRC, the recognized government of Sierra Leone, they quickly took control of the situation, immediately stopped the marauding RUF rebels, restored order to Freetown, and regained control of the diamond mines. One account summarizes EO's activities in Sierra Leone as follows:

*...200 men were despatched to Sierra Leone where RUF rebels, chopping off people's limbs and engaging in cannibalism, were marching on Freetown. EO smashed the rebels and this led to free and fair elections with a new government being elected. Pressures were again exerted which resulted in EO's withdrawal. In the place of its 200 troops the UN deployed 18,000 soldiers at a cost of U.S.\$1 billion per year. The rebels regrouped, frequently taking UN troops as hostages, and the country again sank back into an orgy of cannibalism and limb chopping.*⁸⁰³

⁸⁰² Barlow, *Executive Outcomes: Against All Odds*.

⁸⁰³ Singer, "Peacekeepers, Inc.," 63.

After the UN took over the operation, and despite a budget and personnel size nearly twenty-times EO's force, it took several years and intervention by the British military to even approach similar results.⁸⁰⁴ In contrast, EO's services cost \$35 million in total, which ended up averaging around \$1.5 million per month for the twenty-one months they were in Sierra Leone.⁸⁰⁵

When no one is willing to act due to political will on the part of the UN, ROs, or states to save lives and protect civilians and human rights, is there a case to be made for using PSCs for intervention, if only temporarily? Many believe so, for example: "Even if they did work for profit, I do believe Executive Outcomes saved more innocent lives in Angola and Sierra Leone with AK-47s than the United Nations did with paperwork, sanctions and protests. Too bad Rwanda only had the UN. Same for Darfur."⁸⁰⁶ Statements like these reflect an attitude that there is a need for *someone* to act when the UN cannot quickly garner the political will or consensus to stop atrocities or nations are unwilling to provide troops. PSCs, hired by IOs or the UN can be that *someone*. As Anna Leander states, "the potential (and proven capacity) of PMCs to break vicious circles of violence weighs heavily in their favour."⁸⁰⁷ However, the UN seems ambivalent on the issue. Secretary General Kofi Annan seems to have made contradictory statements regarding the use of PSCs and armed intervention. Shearer writes that at a press conference in 1997 "Annan bristled at the suggestion that the United Nations would ever consider working with "respectable" mercenary organizations, arguing that there is no "distinction between respectable mercenaries and non-respectable mercenaries."⁸⁰⁸ However, SG Annan noted three years later in his millennium address that, "[a]rmed

⁸⁰⁴ Ibid.

⁸⁰⁵ Singer, *Corporate Warriors*: 112.

⁸⁰⁶ "Grumpy," El Monte, California, USA – Comment from a reviewer of Eeben Barlow's book, *Executive Outcomes: Against All Odds*, found at www.galago.co.za/CAT1_025_b.htm, accessed 19 Jan 2012.

⁸⁰⁷ Anna Leander, "The Market for Force and Public Security: The Destabilizing Consequences of Private Military Companies," *Journal of Peace Research* 42, no. 5 (2005): 608.

⁸⁰⁸ Shearer, "Outsourcing War."

intervention must always remain the option of last resort, but in the face of mass murder, it is an option that cannot be relinquished.”⁸⁰⁹

The conundrum is that Annan seems to acknowledge that there is a contradiction here. Continued inaction in the face of ethnic cleansing, genocide, war crimes, or crimes against humanity⁸¹⁰ seems to demonstrate a sort of rationalized hypocrisy. To write in the Millenium Report that, “[t]he fact that we cannot protect people everywhere is no reason for doing nothing when we can,” only begs the question of why all available options are not considered, especially when states are unwilling to provide necessary assistance.⁸¹¹ Is it immoral to provide human security under contract and for a fee?

- Con

What used to be called warlord militias are now Private Security Companies.

Kandahar City Municipality and Dand District,
District Narrative Analysis ISAF,
Regional Command South Stability
Operations Information Center, March 30, 2010⁸¹²

William Reno refers to Martin van Creveld when he discusses the notion that intervention forces that “beat down the weak” ultimately lose the support of the populations they are trying to help, citing examples from Africa’s oppressed and conflict-ridden past.⁸¹³ Numerous recent examples show that PSCs acting in Iraq and Afghanistan (as well as worldwide in a variety of capacities) showed little or no concern

⁸⁰⁹ Secretary-General of the United Nations Kofi A. Annan, “We the Peoples: The Role of the United Nations in the 21st Century,” in *Report of the Millenium Assembly and the Millenium Summit* (New York: United Nations, 2000), 48.

⁸¹⁰ Ibid. E.g. Rwanda, Srebrenica, Darfur, DRC (ongoing) – all atrocities that are clear examples of when to invoke the “Responsibility to Protect (R2P),” leading to intervention.

⁸¹¹ Ibid.

⁸¹² Committee on Armed Services United States Senate, “Inquiry into the Role and Oversight of Private Security Contractors in Afghanistan,” (Washington, DC: U.S. Senate Committee on Armed Services, 28 September 2010), i.

⁸¹³ Martin van Creveld, “Power in War,” *Theoretical Inquiries in Law* 7.1(2006): 1; Reno, “Persistent Insurgencies and Warlords: Who Is Nasty, Who Is Nice, and Why?.”

for anyone not directly tied to their mission as stipulated in their contract. Although there are myriad examples of UN peacekeepers disregarding human rights or breaking the law, none are so brazen (and as yet unpunished) as PSCs have demonstrated themselves to be in the recent wars in Iraq and Afghanistan. It does not take an incident such as occurred in Nisoor Square in 2007 by Blackwater employees or the torture at Abu Ghraib, participated in by CACI and TITAN employees, to remind us that PSCs have operated in a manner inconsistent with the principles and culture of UN peacekeeping. Moreover, peacekeepers have their national military code of justice to which they have to answer if they are found to be violating human rights or committing criminal acts. Current laws concerning PSCs are not as clear as sending an employee back to his “home state” to receive punishment under his or her national system.⁸¹⁴

Increased interventions by the UN have led to a dramatic rise in the use of PSCs prior to and alongside peacekeeping missions.⁸¹⁵ When UN officials enter a country to evaluate and observe what they believe may be the beginnings of a conflict (or after one has begun), but prior to a mandate being issued by the SC, they often require security to protect themselves, offices, or equipment/vehicles. Since these are not yet sanctioned peacekeeping missions, UN peacekeepers cannot be used. The predominant (and most simple to acquire) options that remain are PSCs, local security, or soldiers on loan from member states under special agreement, for example, memoranda of understanding (MOUs). As a result, PSCs are often chosen because they are perceived as well-trained, efficient, and effective. However, there are three negative consequences of

⁸¹⁴ These injustices also affect a PSC’s legitimacy since their failure to follow laws not only delegitimizes them, but also that their own procedures are often shrouded behind the “corporate veil” making their procedures opaque and unfair. Both the procedural approach and fairness are key arguments in establishing legitimacy for any agency or organization. Hurd, *After Anarchy*: Ch. 3.

⁸¹⁵ Pingeot, “Dangerous Partnership,” 27–38.

choosing private security, especially armed security: 1) self-perpetuating “securitization”; 2) “bunkerization”;⁸¹⁶ and 3) increased threat to UN personnel.

The first negative consequence of the increased use of PSCs for UN operations, self-perpetuating “securitization,” occurs because although there are threats to UN personnel, especially in conflict/post-conflict (C/PC) states, the use of private security creates an us-versus-them environment, further separating UN personnel from the community and the people they are there to protect. The 2008 Brahimi Report argues that “the ‘UN fortress’ approach—a model of protection perceived as being based on over-reliance on physical security tools like ‘T’ walls and heavily armed military escorts—associates the Organization with military powers, and potentially distances it from the public it was founded to serve. This physical profile [...] has a direct negative impact on UN image.”⁸¹⁷ Moreover, the Office for the Coordination of Humanitarian Affairs (OCHA) found that PSCs were “also increasingly becoming a target.”⁸¹⁸ As a result, as security is raised, the threat increases, and as the threat increases, PSCs respond by recommending heightened security measures.

The second negative consequence is “bunkerization,” a condition that can be a result of the increased securitization of UN missions or offices. As compounds become reinforced and security hardened to protect the UN inhabitants, UN personnel become less likely or able to get outside the wire (literally razor wire) and conduct proper observations or meet with community members without fear of attack. In fact, an OCHA report mentions that even the “strategy of ‘showing the flag’ is not sufficient in ensuring

⁸¹⁶ The UN has recently begun to address “bunkerization” through what they are now calling, in a 2011 OCHA report, “smart protection.” Under the concept of “smart protection,” the UN uses much more discreet protection measures, such as placing their facilities away from roads, using concrete planters, or reinforcing buildings from the inside. They are also creating “diplomatic enclaves,” areas which separate international or UN personnel outside population centers instead of concentrating them in retro-fitted buildings within cities. UN Office for the Coordination of Humanitarian Affairs (OCHA), “Guidelines for Humanitarian Organizations on Interacting With Military and Other Security Actors in Iraq,” (New York: United Nations, 20 October 2004), 28–29. Pingeot, “Dangerous Partnership,” 38.

⁸¹⁷ Brahimi, “Towards a Culture of Security and Accountability.”

⁸¹⁸ (OCHA), “Guidelines for Humanitarian Organizations,” 5.

the security and safety of humanitarian personnel.⁸¹⁹ On the contrary, it could even attract attacks.” In one case in Peshawar, Pakistan, in 2009–2010, a heavily reinforced and hardened UN security compound did lower its flag in an effort to become more anonymous. However, this tactic backfired because the local community began to think that it was a Blackwater compound making it even more of a threat.⁸²⁰ The UN ended up re-raising the UN flag.⁸²¹

The final negative consequence is that the association with PSCs can in and of itself be a cause of an increased threat to UN personnel. PSCs have been associated with human rights abuses, aggressive behavior, and complete disregard for anyone except their client. They often also are equated with Western influence and dominance—to place them alongside UN officials and practitioners only further promotes the idea that, as the 2008 Brahimi report notes, “at the core of this issue is the perception that the United Nations has become an instrument of powerful Member States to advance agendas that serve their own interests, rather than those of the global community of nations.”⁸²² The increased separation from the community in which they are working, combined with “bunkerization” and the use of PSCs to protect themselves, only serve to promote the us-versus-them mentality, making UN actors more of a target and less safe.

b. Cost/Outsourcing

• **Pro**

Outsourcing peacekeeping will reduce cost to the international community and increase the effectiveness and efficiency of peace operations.⁸²³ Because private firms do not have to rely on troop contributing countries to decide whether or not a cause

⁸¹⁹ Ibid., 4.

⁸²⁰ Pingeot, “Dangerous Partnership,” 38.

⁸²¹ Ibid.

⁸²² Brahimi, “Towards a Culture of Security and Accountability,” 70.

⁸²³ This dissertation uses the definition of effectiveness as “the ability to achieve stated goals.” Efficiency, as used here combines cost-effectiveness with speed, flexibility, and “use of resources to fulfill the assigned roles and missions.” Bruneau, *Patriots For Profit : Contractors And The Military In U.S. National Security*: 33–34.

is in their interest enough to donate troops, they can identify the best employees and locate the best equipment in order to fulfill the mission. Efficient contract accomplishment and therefore maximizing profit requires that companies find the most capable personnel and employ them quickly to get the job done, get paid, and move to the next contract. PSCs have the flexibility and expandability that large organizations cannot match.⁸²⁴ Unlike the UN, PSCs do not have to consider politics, political will, and are not forced to beg for forces. PSCs also do not have the same "...procedural hang-ups that hamper international organizations; they are less threatened by the internal tensions that plague multinational forces and can take quicker and more decisive action."⁸²⁵ As Brooks of the ISOA is quoted as saying, PSCs can do peacekeeping "faster, cheaper, better."⁸²⁶

A commonly argued view that outsourcing reduces public cost and encourages economic growth lends support to the argument that privatization of peacekeeping could actually be cheaper in the long-run.⁸²⁷ The two most cited examples of PSCs doing it "faster, cheaper, better," reference the two companies EO and Sandline, who engaged in numerous operations for the governments of Papua New Guinea, Angola, and Sierra Leone. In each of these three cases, both companies adhered to their contracts, and either brought the rebels to the bargaining table, or left when asked by the government or as part of the negotiated agreement. Though none of these contracts was without controversy, the preponderance of the evidence shows that the two PSCs acted in good faith and in accordance with their contracts.

⁸²⁴ Brooks, "The Business of World Peace: Military Service Providers (MSPs) Revolutionize International Peace Operations."

⁸²⁵ Singer, "Peacekeepers, Inc.," 63.

⁸²⁶ Doug Brooks and Gaurav Laroia, "Privatized Peacekeeping," *The National Interest*(2005), www.nationalinterest.org/ME2/Segments/Publications/. See also, Brooks, "Ruthless Humanitarianism: why marginalizing private peacekeeping kills people," 120.

⁸²⁷ Paul Starr, "The Limits of Privatization," *Proceedings of the Academy of Political Science* 36, no. 3 (1987).

There is currently a partially privatized peace operation which has been ongoing since 1981 and it has remained effective, efficient, and successful.⁸²⁸ The Multinational Force and Observers (MFO) was the replacement to the successful UN Emergency Force (UNEF), both I and II, following the Suez Crisis in 1956 and then the Yom Kippur War (or October War) in 1973. Though tensions had diminished, they still existed; however, a threat of veto by the USSR (under pressure by Syria) prevented a continuation of the UN's involvement. In an effort to ensure the peace was kept, former U.S. President Jimmy Carter, Israeli Prime Minister Menachem Begin, and Egyptian President Anwar Sadat began negotiations to set up a separate peacekeeping organization external to the UN. The result was the Protocol to the Treaty of Peace, signed on 3 August 1981, which set up the Multinational Force and Observers mission.⁸²⁹

Similar to any Chapter VI UN peacekeeping operation, the primary function of the MFO mission is to supervise the “implementation of the security provisions of the Egyptian-Israeli Treaty of Peace and employ best efforts to prevent any violations of its terms. Article II of Annex I to the Treaty of Peace establishes four security zones, three in the Sinai in Egypt and one in Israel along the international border. Limitations on military forces and equipment within each zone are stipulated in Annex I to the Treaty.”⁸³⁰ Accomplished with a mix of soldiers from twelve countries and contracted civilian observers, the requirements for civilian observers are very similar to the position description for employees of PSCs. For example, from the MFO website under “Employment”:

Requirements: Former military officer with a college degree as well as experience in a combat arms branch or similar, techniques of air/ground reconnaissance including map reading, air and ground navigation, knowledge of military equipment, organization and weapons systems, and HF/VHF radio communications procedures. U.S. citizenship is

⁸²⁸ The MNO is effective, in that they have been able to “achieve stated goals”; they have been efficient, in that they have expediently and flexibly used their “resources to fulfill the assigned roles and missions.” Bruneau, *Patriots For Profit : Contractors And The Military In U.S. National Security*, 33–34.

⁸²⁹ Staff, “Joint Pub 3–07.3, Joint Tactics, Techniques, and Procedures for Peacekeeping Operations.”

⁸³⁰ Multinational Force and Observers, “Multinational Force & Observers,” <http://www.mfo.org/index.php>. Accessed 30 June 2012.

*mandatory. Ability to live and work with soldiers from more than 11 different countries in a relatively Spartan environment. Middle East Area Specialist experience and some Arabic/Hebrew is highly desirable. Graduation from a U.S. military staff college is a plus. 2-year, unaccompanied contract, attractive salary, benefits and housing, food and medical care included. May be eligible for tax free status.*⁸³¹

It is not a stretch to suggest that a PSC employee with similar qualifications could integrate with UN peacekeeping forces under clear and effective control such as the MFO has exercised since 1981. Working together successfully for thirty-plus years proves that contracted civilians and multinational peacekeepers can be successful at keeping the peace.

- Con

As opposed to a commonly-argued belief that privatization is cheaper and leads to increased productivity and economic growth, Paul Starr argues that “contracting out expands the set of claimants on the public treasury,” increasing costs.⁸³² For peacekeeping this could ultimately mean that funding states (read as predominantly Western states) will be required to pay the ever-expanding costs associated with increased privatization of elements of peacekeeping. If peacekeeping is costly now, privatization is likely to make it even more so. And unlike nations, contractors have an interest in manipulating incentives for better performance (as defined by achieving stated goals and maximizing efficiency and effectiveness) to their own advantage—or if not intentional manipulation, allowing an asymmetry of information to exist such that they are benefitted or preferred for future contracts. Moreover, some PSCs are large enough and ingrained into the political machinery deeply enough that they are capable of influencing political will or decisions, either “illegitimately through bribery or legally through campaign contributions and lobbying.”⁸³³ The strongest proponent of

⁸³¹ Ibid. See “Employment.” Accessed 6 July 2012.

⁸³² Starr, “The Limits of Privatization,” 128.

⁸³³ Ibid.

privatization of peacekeeping is the lobbying organization ISOA. Many of the members of the ISOA have deep and wide roots in the military, politics, government, and big business.⁸³⁴

It is naive to assume that there is no influence by powerful international corporations on both national and international decision-making. In fact, Enrique Bernales Ballesteros (acting in the capacity as Special Rapporteur on the question of the use of mercenaries) has said that “attitudes appear to be changing towards the mercenary issue,” which is “partly ‘because influential sectors in the corridors of power of important States insist on denying or minimizing the existence of mercenaries in contemporary society.’”⁸³⁵

In a recent report by the Project on Government Oversight (POGO), the cost of outsourcing in general was found to be 1.83 times more costly than paying government employees for the same jobs and more than 2 times what non-contractor private-sector personnel receive for the same jobs.⁸³⁶ In the specific area of security work abroad, by using a 2008 Congressional Budget Office (CBO) report on cost-comparisons, POGO found that the average pay for private security contractors was 1.78 times more than paying a federal employee to do the same job. A comprehensive report, compiled over three-year period by the U.S. Commission on Wartime Contracting (CWC) found that a *conservative* estimate of the waste and fraud from contracting cost the U.S. between \$31 and \$60 billion over a nine year span from 2002–2011.⁸³⁷ Jessica Vogel, ISOA’s Director, Programs and Operations, told me “There has never been comprehensive and accurate data published on this topic.” The claim that PSCs are

⁸³⁴ Personal experience attending the ISOA Annual Summit, meeting industry, government, and international officials and executives. Also evidenced by obvious connections between government and big business, e.g. Dick Cheney and involvement with Haliburton, Joe Schmitz’s position as DoD IG, then as COO of Blackwater Worldwide, former Ambassador David Litt, now Chair for ISOA Annual Summit, etc.

⁸³⁵ UN, “UN General Assembly Report on the Use of Mercenaries,” Sections 97 & 83. *Cited in* Leander, “The Market for Force and Public Security: The Destabilizing Consequences of Private Military Companies,” 607.

⁸³⁶ Oversight, “Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors.”

⁸³⁷ Commission on Wartime Contracting, “Transforming Wartime Contracting: Controlling Costs, Reducing Risks - Final Report,” in *Final Report to Congress: Findings and recommendations for legislative and policy changes* (Washington, DC: Commission on Wartime Contracting, August 2011), 5.

“cheaper” (made by Doug Brooks, the president of her organization and others), is difficult to believe in light of this recent data.⁸³⁸ (The CWC and POGO’s reports are discussed in greater detail in Chapter III of this paper on cost-comparison and analysis.)

Not only does outsourcing cost more, but two people I interviewed, one a researcher at the International Peace Institute, and the other a legal scholar who writes on PSCs, told me that the global South (TCCs—those who provide the peacekeepers) would never allow PSCs to conduct peacekeeping since it supplies them both money and prestige.⁸³⁹ In my interview with James Cockayne, he gave other reasons given for why the UN will never outsource peacekeeping to PSCs:

1) PSCs do not bring political capital—“peacekeeping missions are not military interventions pure and simple: they are political operations. TCCs bring political capital to that process, helping to underwrite and secure it. PSCs do not and cannot.”

2) There is still not sufficient control of private contractors for member states to agree to allow them to conduct peacekeeping.

3) Introducing multi-jurisdictional contractual arrangements into multi-jurisdictional peacekeeping settings adds a level of complexity that could be problematic for managerial and functional control. “Not just military commanders, but also civilian leadership, in peace operations may not have contractual leverage and may therefore struggle to control private contractors.”

4) The United Nations will not risk its legitimacy—it is one thing for the UN to use PSCs in an ad hoc fashion where they are not necessarily under direct UN control, but contracted to perform a job and doing it under their own management; it is quite another for the UN to claim PSCs as part of a peacekeeping contingent.

⁸³⁸ Vogel, Jessica, Director of Operations, International Stability Operations Association, email communication.

⁸³⁹ James Cockayne discussed the payments to TCCs for peacekeeping; Adam Smith discussed the prestige that goes along with having representation at the UN through holding posts and providing peacekeepers. Cockayne, “Interview with James Cockayne, Co-Director, Center on Global Counter-Terrorism Cooperation.”; Smith, “Interview with Adam Smith, Researcher, International Peace Institute.”

5) Global South wants to continue to receive the money for the troops it provides. [PSCs could create competition shifting money away from the TCCs.]

6) Many lesser developed or weaker states prefer to provide peacekeepers because “keeping troops away from home and conducting peacekeeping keeps them from committing *coups* [at home].”

7) PSCs are a commodity to be bought; there will be no long-term commitment to human security by PSCs—they will leave when their contract expires. Examples include East Timor, Afghanistan, and Liberia; effects of the development of the private security market in those areas have not made them safer.⁸⁴⁰

Given these arguments against outsourcing peacekeeping to PSCs, there are other negative implications that could be drawn:

- The large majority of member states are not likely to allow competition between public and private interests, diverting needed money from LDCs.
- A civilian contract does not bind a contractor in the same way as a soldier is bound to follow orders. Command and control (C2) at the contingent commander level could be difficult to enforce—PSC employees could drop and run, refuse or disobey orders.

Another reason that outsourcing peacekeeping is a problem is because the UN’s own system for outsourcing security is flawed.⁸⁴¹ According to an interview conducted with a UN Department of Safety and Security (DSS) official, there is a “lack of clear policies and procedures.”⁸⁴² Although there is a UN Field Security Handbook, which notes that “under such rare and exceptional circumstance, the organizations of the United Nations system may protect their offices, premises and personnel by employing security service companies providing armed guards,” the Handbook has no provision for how to choose private security contractors, nor does it include any guidance on verifying

⁸⁴⁰ Cockayne, “Interview with James Cockayne, Co-Director, Center on Global Counter-Terrorism Cooperation.”

⁸⁴¹ Østensen, “UN Use of Private Military and Security Companies: Practices and Policies.”

⁸⁴² Ibid., 40–41.

training, weapons certifications, or whether or not employees have criminal records.⁸⁴³ Given that there is no standard procedure in place for hiring PSCs, it is staggering to note that UN spending on “security services,” increased 73 percent from \$44M in 2009 to \$76M in 2010.⁸⁴⁴ These amounts are only a partial list from UN websites and account for less than the actual UN spending on security services.⁸⁴⁵

Åse Østensen, who has done extensive research into UN practices and policies regarding PSCs, writes that, “Presumably, guidelines drafted particularly for the contracting of PMSCs to perform armed security services are non-existent.”⁸⁴⁶ Not only that, often, PSCs hire large numbers of third country nationals (TCNs) or local nationals (LNs) for a host of reasons, to include cost, political direction, local laws, contribution to local society, or because an LN may have a better understanding of the local population, thus enabling a company to be more effective than competitors. To give an example of how diverse the use of LNs or TCNs can be, Mark J. Lumer, the Pentagon official responsible for overseeing Army procurement contracts in Iraq, stated that 95% of PSCs are LNs in Afghanistan, while less than 1-percent of PSCs in Iraq hired LNs.⁸⁴⁷ Furthermore, it is not uncommon for large conglomerates to subcontract to smaller firms who often subcontract to even smaller, more specialized firms, and in the end, there could be multiple layers of subcontracting and sub-sub-contracting.⁸⁴⁸ Consequently, not only does this complicate the problem of regulation from the moment of an incident. (E.g. who is responsible for the investigation?) But selecting which laws apply to which PSC employees and when is difficult, especially in conflict zones and especially when PSCs

⁸⁴³ United Nations Department of Safety and Security, “Field Security Handbook,” in *Annex O* (New York: DSS, 2006).

⁸⁴⁴ Pingeot, “Dangerous Partnership,” 27–42.

⁸⁴⁵ Much of this data can be found on the UN Procurement Division’s website (<https://www.un.org/depts/ptd/>) and the UN Global Marketplace’s website (<https://www.ungm.org/Default.aspx>). *Cited in* Ibid., 23.

⁸⁴⁶ Østensen, “UN Use of Private Military and Security Companies: Practices and Policies,” 51.

⁸⁴⁷ Mark J. Lumer, former Asst Deputy Asst Secretary of Army (Policy and Procurement), Iraq, a speaker at the seminar on Logistics Cooperation for Stabilization and Reconstruction (LCSR), sponsored by the Center for Stabilization and Economic Reconstruction (CSER) and Institute for Defense and Business (IDB) at Duke University, 27 October 2011.

⁸⁴⁸ Pingeot, “Dangerous Partnership,” 34.

are not willing to expose themselves to negative press which could ultimately launch investigations into their activities, resulting in penalties or a damaged reputation and hence reduced future contract opportunities.

This phenomenon of sub-sub-contracting by PSCs has led to the hiring of warlords and their followers in Afghanistan among other problems of oversight, accountability, and control of PSCs. In a report by the Senate Committee on Armed Services, evidence was uncovered of U.S. PSCs “funneling U.S. taxpayers [sic] dollars to Afghan warlords and strongmen linked to murder, kidnapping, bribery, as well as Taliban and other anti-Coalition activities.”⁸⁴⁹ Even if companies subscribe to ISOA’s code of conduct or the international code of conduct (ICoC) and adhere to the Montreux Document’s “good practices,” how can they guarantee that these same standards of conduct are being adhered to if they are sub-sub-contracting and fielding personnel from other companies?⁸⁵⁰ “Aspirational standards” such as the ICoC and self-regulation are meaningless if they cannot be monitored or enforced, if they are “toothless.”⁸⁵¹

Similar to what has happened in Afghanistan and Iraq, it is likely that if outsourced peacekeepers were used, they would be getting paid substantially more than their traditionally supplied national contingent soldier counterparts. The problem of pay disparity has been a factor since the early days of peacekeeping and continues today. Charles Moskos writes of an example in his seminal work, *Peace Soldiers*, of a British officer complaining,

*How do you think my men feel? A British soldier makes £10 a week, and a Swede two miles down the road makes £30 a week for doing exactly the same thing. How do I explain to my men about making the world safe for peacekeeping? They want to know why they’re not getting paid what the Swede is getting paid. And I don’t know what to tell them myself.*⁸⁵²

⁸⁴⁹ Senate, “Inquiry into the Role and Oversight,” i.

⁸⁵⁰ Pingeot, “Interview with Ms. Lou Pingeot, Program Coordinator, Global Policy Forum.”

⁸⁵¹ Joseph Schmitz, PowerPoint Slide, 7 June 2012.

⁸⁵² Moskos, *Peace Soldiers : The Sociology Of A United Nations Military Force*, 72.

Today this scene has played itself over and over again in various contexts: for example, when American troops have compared themselves to their PSC counterparts; or when Iraqis working in security observed corporate security guards earning more than they. It also continues in Afghanistan with the Ministry of Interior's Afghan Private Protection Force (APPF): "...in a poor nation such as Afghanistan, resentment built quickly when it was discovered that the Afghan army was getting paid much less than the private militias."⁸⁵³ In the end, whether or not this disparity in pay affects effectiveness or performance has not been studied in depth, but the anecdotal evidence that it affects morale is overwhelming.⁸⁵⁴ What this means for peacekeeping has not yet been studied nor evaluated, but there is already a disparity in pay for peacekeepers if only because national governments pay their peacekeepers according to national standards. For example, the pay of a Canadian sergeant conducting peacekeeping beside an Italian sergeant is substantially more at approximately U.S. \$6000 per month versus U.S. \$1690 per month.⁸⁵⁵

Finally, given that the policies necessary to contract private security services to conduct peacekeeping are not even in place at the UN, it can be inferred that outsourcing peacekeeping itself would not be advisable without first establishing clear security contracting procedures and practices across all UN agencies. Not only would DPKO and the DPA be effected, this would involve major institutional changes, including incorporation of a legal framework that could tap into existing law regarding the regulation of PSCs and PSC employees. A number of scholars have proposed

⁸⁵³ Al-Akhbar, "Afghanistan: The Business of War in Afghanistan," in *The American Journal of International Law* (The Muslim News, 26 April 2012).

⁸⁵⁴ See for example, Molly Dunigan, "Testimony submitted to the Commission on Wartime Contracting: Considerations for the Use of Private Security Contractors in Future U.S. Military Deployments," (Santa Monica: The RAND Corporation, 18 June 2010); Ulrich Petersohn Sarah K. Cotton, Molly Dunigan, Q Burkhart, Megan Zander-Cotugno, Edward O'Connell, and Michael Webber, "Hired Guns: Views About Armed Contractors in Operation Iraqi Freedom," National Security Research Division (Santa Monica: The RAND Corporation, 2010), Ch. 3.

⁸⁵⁵ See military pay scales for Canada and Italy: <http://www.forces.ca/en/page/payscales-131#ncmsregular-3> and <http://www.difesa.it/Pagine/default.aspx>.

methods of regulating PSCs—few appear to be applicable to the UN; most relate solely to national or international systems of regulation of PSCs or employees and do not consider the institutional and multinational nature of UN peacekeeping.⁸⁵⁶ While some argue that when dealing with any private or commercial venture, the contract is key, Cockayne points out that it is a “very thin read to say that contracts will control contractors for the UN.”⁸⁵⁷ His contention is that the UN has no real power to enforce the contracts. Unlike a government, such as the U.S., which could have a bilateral contract with a PSC, contract enforcement through the UN would require third-party accountability—which is just not legally enforceable.⁸⁵⁸

c. *Effectiveness/Speed and Flexibility*

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*The UN’s “system for launching operations has sometimes been compared to a volunteer fire department, but that description is too generous. Every time there is a fire, we must first find fire engines and the funds to run them before we can start dousing any flames. The present system relies almost entirely on last minute, ad hoc arrangements that guarantee delay, with respect to the provision of civilian personnel even more so than military. Although we have understandings for military standby arrangements with Member States, the availability of the designated forces is unpredictable and very few are in a state of high readiness. Resource constraints preclude us even from being able to deploy a mission headquarters rapidly.”*⁸⁵⁹

⁸⁵⁶ See for example Sheehy, Maogoto, and Newell, *Legal Control Of The Private Military Corporation*; Avant, *The market For Force : The Consequences Of Privatizing Security*; Caparini, “Regulating Private Military and Security Companies: The U.S. Approach.”; Dickinson, *Outsourcing War And Peace : Preserving Public Values In A World Of Privatized Foreign Affairs*. See also Imke-Ilse Drews, Christian Schaller, Maurice Voyame, Katja Weigelt and Frank Märker, Susan Buchner, Andrea Schneiker, Deborah Avant, and Sebastian Drutschmann for their eight articles comprising Chapter IV “Legal Issues and Patterns of Regulation” in Jäger and Kümmel, *Private Military And Security Companies : Chances, Problems, Pitfalls And Prospects*.

⁸⁵⁷ Cockayne, “Interview with James Cockayne, Co-Director, Center on Global Counter-Terrorism Cooperation.” Benedict Sheehy, Laura Dickinson, Doug Brooks, Joe Schmitz, and others across the spectrum from academic to government to private argue that the contract is the single best instrument for holding PSCs accountable.

⁸⁵⁸ Ibid.

⁸⁵⁹ Kofi A. Annan, “We the Peoples: The Role of the United Nations in the 21st Century,” 49.

States have shown that they are unwilling to provide ready reserve troops for use in any mission as the UN sees fit. Member states are often selective about the missions on which they will embark troops, and ever since the U.S. debacle in Somalia, Western states have been very hesitant to send troops, especially on intervention or Chapter VII missions.

PSCs have shown their ability to deploy large numbers of capable security forces in weeks after receiving a contract. The two most famous cases are those of EO and Sandline in Sierra Leone. In 1995, EO, while still in western Africa with the majority of its personnel and equipment, was able to quickly mobilize within weeks and move from Angola to forward operating areas around Freetown where the RUF were preparing to invade. Three years later, in 1998, Sandline too was able to get the majority of its forces in Sierra Leone within weeks to confront the RUF. This process takes much longer with UN troops. Even from the moment the Security Council agrees to intervene, UN peacekeeping missions take between six and nine months to get troops on the ground and into service.

In the case of the use of regional peacekeeping troops, such as ECOMOG in Sierra Leone, there are added complications with which PSCs do not have to deal. Regional organizations such as the AU often come with political baggage. The troops used may have ethnic or tribal biases against the population in the country in which they are intervening. Or worse, there may be geo-political reasons that participating states may want to get a foothold in certain other countries. These political interests may drive outcomes largely beneficial to the intervening state or group of states who have provided troops, and not beneficial to long term peace and stability.

The innovation, speed, and flexibility that PSCs claim to be able to bring is not just based upon the examples of EO and Sandline in Sierra Leone. PSCs today are able to provide security forces to a myriad of different crisis situations quickly. Unlike the PMCs of old, PSCs today use associations like the ISOA to partner capabilities quickly and respond effectively and efficiently. Competition amongst contractors to provide personnel, services, and logistic support is fierce and as a result, the ones that act the quickest and most effectively get the most contracts. The contracts of today mostly

deal with protection of diplomats (personal protection details, or “PPDs”), or provision of security for NGOs, INGOs, private companies, and even the UN during humanitarian crises such as is currently ongoing in Haiti. Moreover, the ISOA and its members provide services to international peacekeeping, peace enforcement, humanitarian rescue, stabilization efforts and disaster relief, security sector reform, medical services, and training.⁸⁶⁰ This is the reason that the ISOA, previously known as the IPOA (exchange “peace” for “stability”) changed their name.

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An area where PSCs claim advantage over traditional peacekeeping forces is their ability to deploy quickly and efficiently, something the UN has traditionally been unable to do in emergency situations. In fact, this capability was one of the focuses of a point paper written by Doug Brooks for presentation in support of the UN organization mission in the Democratic Republic of Congo (MONUC). He argues that not only would PSCs operate in the same manner as any national UN contingent, but that PSCs could deploy in 30–90 days and cost 25% less.⁸⁶¹ This argument seems to be regurgitated every time a comparison is made between traditional UN troops and PSCs.⁸⁶²

However, as Christopher Spearin argues, PSCs no longer have the capabilities, range of experience, or skill levels required to conduct the full scope of peacekeeping as often advertised.⁸⁶³ His contention is that the PSCs of the nineties, such as Executive Outcomes, were bands of soldiers who had spent years together and trained together in a full range of military operations making them extremely capable as peace enforcers and potentially as peacekeepers. Nowadays, PSCs neither have the combinations of skilled and coherently trained personnel nor do they have the range of skills required to conduct peacekeeping commensurate with the requirements of a UN

⁸⁶⁰ See ISOA website: <http://stability-operations.org/index.php>

⁸⁶¹ Brooks, “Supporting the MONUC Mandate with Private Services in the Democratic Republic of Congo.”

⁸⁶² See for example, Scott Fitzsimmons, “Dogs of Peace: A Potential Role for Private Military Companies in Peace Implementation,” *Journal of Military and Strategic Studies* 8, no. 1 (2005).

⁸⁶³ Spearin, “UN Peacekeeping and the International Private Military and Security Industry.”

peacekeeping contingent. “[I]t would be difficult for PMSCs to respond effectively, quickly, and robustly should the UN turn to them for enforcement operations today.”⁸⁶⁴ Moreover, he claims that PSCs today have far too specialized training in defense and protection rather than offensive operations which could detract from their ability to conduct enforcement, and potentially offensive, peace operations.⁸⁶⁵

Combat operations or even the potential that combat may occur is an entirely different matter. Responses need to be immediate, effective, and correct. Mistakes can have catastrophic international consequences, in addition to the problems that may occur within affected communities. Excessive use of force, failure to understand rules of engagement, and unclear lines of accountability remain problems with outsourcing armed security in specific and peacekeeping in general. Outsourcing peacekeeping, which is essentially the military arm of a political mission, to a PSC with employees who may not have ever trained together, who may not know each other, or may not even speak the same language, carries with it a great deal of risk, especially when the effectiveness and legitimacy of the UN is placed on the back of its peacekeepers.⁸⁶⁶

The UN has the speed and flexibility to act quickly once a peacekeeping operation is authorized by the SC; no one at the UN wants to see a repeat of what occurred in Rwanda or Bosnia. The fact is, even if PSCs were carefully vetted and placed on standby as a rapid reaction force when needed, the SC would still have to authorize them to deploy. It is true that large PSOs take time to amass the necessary troops. Countries have to be solicited for donors, resources have to be found to support the operation, and logistics such as supply lines and transportation have to be created in order to get the peacekeepers to the field; this can take between six and nine months. This

⁸⁶⁴ Ibid., 197.

⁸⁶⁵ Ibid., 200–02.

⁸⁶⁶ As a naval officer with more than twenty eight years in the Navy, having served on four different ships with thousands of Sailors and Marines, my experience has consistently been that crews must be fully indoctrinated into the organization and have trained together for weeks or months in order to perform even routine military tasks effectively.

timeframe is one reason the UN has increased its focus on an idea of peacebuilding as all peacekeeping—tying together all elements in an effort to be proactive and engaged rather than reactive and attempting to intervene after conflict. The UN has learned a great deal from the Rwanda and Bosnia debacles over the past fifteen years and has attempted to apply those lessons toward employing forces more quickly and “robustly” in order to save lives and enforce human security. The results have not all been positive, as can be seen in the continuing conflict in DRC and various failures in Haiti. However, the idea of “robust peacekeeping” and well-trained and experienced forces intervening into conflict situations has resulted in a much more capable fighting force that can respond more quickly to emerging conflicts or prevention of R2P crimes until the main peacekeeping body can get on station. These peacekeeping operations have garnered criticism for their aggressiveness, but they are necessary if the UN is to fulfill its promises of protection of civilians (PoC) and human security in the face of violent aggression.

d. Accountability

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Accountability is one of the biggest areas of concern whenever PSCs are mentioned. One of the most common claims is that there is no way to hold these private firms accountable for criminal offenses or misconduct overseas. Some have also claimed that U.S. national security interests have been undermined by “the failure to establish a meaningful system of accountability.”⁸⁶⁷ There are, however, according to legal scholar Laura Dickinson, four mechanisms of accountability and constraint: legal; contractual; public participation; and organizational.⁸⁶⁸ Within these mechanisms can be found the necessary means by which PSCs could be held accountable; however, the will to do so must exist.

⁸⁶⁷ First, “PSCs at War,” iii.

⁸⁶⁸ Laura A. Dickinson, “Outsourcing Covert Activities,” *Journal of National Security Law and Policy* 5(February 2012): 525–27.

Dickinson writes that “Providing contracts to private employees serves the illusion that ‘government is not big’ or ‘is getting smaller.’ As a consequence, the starting point for my argument is that we should accept the reality of outsourcing and seek to control it better. We are in a brave new world, and we cannot ignore it. Accordingly, our best way forward is not to rail against the use of contractors in toto, but to provide better accountability for the contractors upon whom we increasingly rely.”⁸⁶⁹

Most of the money Washington devoted to contractor support was well-spent. In fact, it would have been impossible to conduct either conflict without the private sector. However, in the opinion of the Commission on Wartime Contracting, between \$30 and \$60 billion of the money spent was lost to waste and fraud. There were many reasons for this problem including high security costs, poor project planning and management, lack of adequate oversight by an overburdened acquisition workforce, the absence of well-defined requirements and performance metrics and the attitude that this was war and “damn the costs.” A few individuals went to jail for outright criminal fraud and a number of companies had charges amounting to hundreds of millions of dollars disallowed.

*It all sounds very simple: greedy companies trying to take advantage of the U.S. government and cheat our men and women in uniform. The truth is a lot more complex. In some cases, in fact, it is the government that is in the wrong and the companies that are right.*⁸⁷⁰

The question of accountability of PSCs, and contractors in general, has been a major sticking point in the debate on whether or not to privatize. The lion’s share of the problem is that oversight itself is often either negligible or nonexistent. The oft-quoted Ronald Reagan line applies, “Trust, but verify,” as does the phrase, “expect what you inspect.” The oversight mechanisms are in place, and some argue, are becoming excessive, increasing cost to the contractors, which in turn increases cost to the client. However, what has been argued by the PSCs themselves and is now borne out in the U.S.

⁸⁶⁹ Ibid., 524.

⁸⁷⁰ Daniel Goure, “Contingency Support Contractors Beware: The Agility Experience,” Defence Professionals News, <http://www.defpro.com/news/details/35286/?SID=97d2655472933537800025f9bd6f3b06>.

Commission on Wartime Contracting (CWC) report is that responsibility for accountability must be shared equally between the U.S. government and contractors. The American experience in Iraq and Afghanistan produced an explosion in the use of PSCs in both of these conflicts. Unfortunately, there were not enough Contracting Officer Representatives (CORs) to monitor the contracts and provide the necessary oversight. In some cases, contractors simply abided by their contracts waiting for government direction which never came, leading to waste. In other cases, there was outright fraud by contractors or federal employees.

The CWC's report identified between \$31 and \$60 billion dollars of waste, or one out of every six taxpayer dollars.⁸⁷¹ The CWC does not place the responsibility for this waste squarely on the shoulders of the contractors, but largely on the U.S. government for not using the mechanisms in place to monitor contractor performance. In many cases contractors with subpar performance were hired repeatedly. The CWC found poor planning by the government, "vague and shifting contract requirements, inadequate competition, substandard contract management and oversight, lax accountability, weak interagency coordination," and unclear lines of responsibility which were not made clear in contracts.⁸⁷²

In the U.S., accountability mechanisms are in place, from the Military Extraterritorial Jurisdiction Act (MEJA)⁸⁷³ which functions as the primary method of holding contractors accountable, to the Uniform Code of Military Justice (UCMJ) which applies to contractors working directly with military operators, to criminal and civil law,

⁸⁷¹ Contracting, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks - Final Report."

⁸⁷² Gordon, "Decade's Lessons on Contingency Contracting."

⁸⁷³ Major Joseph R. Perlak provides an excellent analysis of the Military Extraterritorial Jurisdiction Act (MEJA): J. R. Perlak, "The Military Extraterritorial Jurisdiction Act of 2000: Implications for contractor personnel," *Military Law Review* 169(2001).

such as the Alien Tort Statute (ATS). (See Table 13 below for a sample list of examples of international and U.S. rules, regulations, and policy with regard to contractor accountability. The list of international instruments and domestic legislation, including non-U.S. legislation is extensive.) Additionally, criminal laws still apply to these contractors within the countries in which they are working and at home. Unfortunately, criminal laws have been difficult to enforce because the areas in which PSCs are operating often have little if any rule of law or justice system in place and investigations of criminal wrongdoing is not the responsibility of contractors.

Finally, there is the recent Civilian Extraterritorial Jurisdiction Act (CEJA) which has not yet been passed by the U.S. Congress, but is meant to compensate for some of the inadequacies of MEJA, and as many argue, will be a “meaningful step towards closing the accountability gap and preventing future abuses by contractors deployed [abroad].”⁸⁷⁴ What all of this means for the possibility that the UN will increase their use of PSCs to include peacekeeping is that they will need to heed the lessons of the U.S. experience with contractors in general and PSCs in specific if they are to achieve real success and avoid the myriad issues and problems the U.S. encountered with contracting.

⁸⁷⁴ Brenda Bowser-Soder, “Nisour Square Anniversary Reminder of Need to Close Accountability Gap,” Human Rights First, www.humanrightsfirst.org/2012/09/14/nisoor-square-anniversary-reminder-of-need-to-close-accountability-gap/. For more information on CEJA, see Brenda Bowser-Soder, “Senate Judiciary Committee Passes Bill on U.S. Civilian Contractor Accountability Abroad,” Human Rights First, <http://www.humanrightsfirst.org/2011/06/23/senate-judiciary-committee-passes-bill-on-u-s-civilian-contractor-accountability-abroad/>. CEJA closes the gap on DoS contractors who, unlike DoD contractors, cannot be held under MEJA; this bill holds all civilian contractors to the same standards as military and DoD contractors.

Table 13. Contractor Accountability: List of International Treaties and Laws, U.S. Statutes, and U.S. Regulations/Policy Statements.⁸⁷⁵

<u>International Treaties and Laws</u>	<u>U.S. Statutes</u>	<u>U.S. Regulations/Policy Statements</u>
–Geneva Conventions (all)	<u>Human Rights Awareness:</u>	–International Traffic in Arms & Export Administration Regulations
–Hague Conventions (II and IV)	–The Anti-Torture Statute	–DFARS §252.225–7040 “Contractors Supporting a Force Deployed for Contingency, Humanitarian, Peacekeeping or Combat Operations” (June 2005)
–Convention for the Elimination of Mercenarism in Africa, 3 July 1977	–U.S. War Crimes Act of 1996	–DoD Instruction 3020.41 “Contractor Personnel Authorized to Accompany the U.S. Armed Forces” (October 2005)
Inter-American Treaty of Reciprocal Assistance, 2 September 1947	–Military Extraterritorial Jurisdiction Act	–General Order No. 1–United States Central Command, as amended 9 August 2003
International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 4 December 1989	–Victims of Trafficking and Violence Protection Act of 2000, Public Law 106–386, codified at 22 U.S.C. §7102 (as implemented by NSPD-22 and the proposed DFARS 225.70XX–Combating Trafficking in Persons, 70 Fed. Reg. 35,603 (June 21, 2005)	General Order No. 1–Multi-national Corps Iraq, dated 12 February 2005
Convention on the Safety of United Nations Personnel and Associated Personnel, 9 December 1994	<u>Defense/Export-Related:</u>	–General Order No. 1–Combined/Joint Task Force (CJTF) 76, dated 15 May 2004
Rome Statute of the International Criminal Court	–The Inspector General Act of 1978	

⁸⁷⁵ Schmitz. These are just examples of some of the most common legislative measures. For a comprehensive list of International Instruments and Domestic Legislation, see Christine and Sossai Bakker, Mirko, *Multilevel regulation of military and security contractors : the interplay between international, European and domestic norms*, Studies in international law (Oxford; Portland, OR: Hart, 2012).

<u>International Treaties and Laws</u>	<u>U.S. Statutes</u>	<u>U.S. Regulations/Policy Statements</u>
UN General Assembly Res 217 (III), Universal Declaration of Human Rights, 10 December 1948	–The Gun Control Act of 1968, as amended	
Draft of a possible Convention on Private Military and Security Companies (PMSCs) for consideration and action by the Human Rights Council, 2 July 2012*	–The Defense Base Act	
Montreux Document*	–The National Firearms Act	
International Code of Conduct for Private Security Providers*	–The Arms Export Control Act	

*International norms such as the Montreux Document or the International Code of Conduct for PSCs are not binding and are not considered “hard” law.

Internationally, the Geneva Conventions apply to “persons who accompany the armed forces without being members thereof, such as...supply contractors, members of labor units or of services responsible for the welfare of the armed forces.”⁸⁷⁶ The Geneva Conventions also protect contractors working with military units who have fallen prisoner, “provided that they have received authorization, from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.”⁸⁷⁷ It can be seen that civilian contractor observers working under the MFO are held accountable and protected by IHL, it is not a stretch to argue that PSC employees would be similarly protected while conducting peacekeeping (in any form) for the UN.

According to Dickinson, Sheehy, Schmitz, and others, the laws and regulatory mechanisms are on the books to hold PSCs and their employees

⁸⁷⁶ Geneva Conventions, “Convention III relative to the Treatment of Prisoners of War,” (Geneva 12 August 1949). *See Article 4 (4)*.

⁸⁷⁷ Ibid.

accountable.⁸⁷⁸ Increased regulation and new or more restrictive laws are not the answer. The answer is found in using the existing laws, regulations, and policies in place. If made illegal or if too much scrutiny is placed on PSCs, they may turn to more covert business practices and actually become more dangerous and increasingly “mercenary-like.” This is similar to the argument that if abortion is made illegal in the U.S., and not openly regulated, many women will resort to illegal abortions, resulting in worse problems.⁸⁷⁹ The South African Foreign Military Assistance Act (FMA) (AKA “anti-mercenary act”) against mercenaries is so restrictive that not only is it mostly ignored, but very few persons have been punished under the law since it was enacted in 1998.⁸⁸⁰

Executive Outcomes had always claimed to operate fully within the law, and although EO had applied for and gotten a license to operate from the South African government after the new anti-mercenary law had been passed, Eeben Barlow, the president of EO, decided that the environment had become too restrictive to properly function, especially in light of the number of unsanctioned or illegal firms popping up at a rapid rate throughout the world, and especially in conflict-ridden Africa. These actual mercenary firms, operating illegally and in violation of the FMA, created a level of competition that legitimate PSCs could not match. O’Brien states that EO announced their termination of operations because they were “no longer able to operate in a climate conducive to doing business due to on-going negative publicity and national regulation in the form of the 1998 *Regulation of Foreign Military Assistance Act*,” which led to actors who worked for EO previously to operate without the same level of scrutiny.⁸⁸¹

⁸⁷⁸ See for example, Dickinson, *Outsourcing War And Peace : Preserving Public Values In A World Of Privatized Foreign Affairs*: 607–20; Sheehy, Maogoto, and Newell, *Legal Control Of The Private Military Corporation*; Schmitz; Nigel D. White, “Regulatory Initiatives at the International Level,” in *Multilevel Regulation of Military and Security Contractors: The Interplay between International, European and Domestic Norms*, ed. Christine Bakker and Mirko Sossai (Oxford: Hart Publishing, 2012).

⁸⁷⁹ Similarly, Herbert Howe comments that “[p]rohibition of “mercenaries” would be akin to outlawing alcohol or prostitution: a durable supply and demand for any product will mock such legislation.” Howe, *Ambiguous Order*: 226.

⁸⁸⁰ Len le Roux, “South African Mercenary Legislation Enacted,” *Institute for Security Studies* (2008).

⁸⁸¹ O’Brien, Kevin A., “PMCs, Myths and Mercenaries, 60.

In the end, the larger companies, like EO, who had demonstrated degrees of self-regulation, accountability, and transparency, were now closing shop, giving way and opening the market to much shadier elements. O'Brien goes on to write that by "engaging in dialogue with these private military companies, the government could have successfully co-opted them into legitimate operations. Now, the closure of EO may well signal the end of this effective dialogue and the emergence of much more covert—and therefore much more potentially damaging—firms engaging in entirely unregulated activities outside of South Africa's borders."⁸⁸² Increased legislation and regulation is not the answer. Enforcement of existing laws and regulations is.

Even though the laws and regulations may be on the books, they are much more difficult to enforce if contracting procedures are not clear or if there are not sufficient resources to monitor the contracts. In Iraq and Afghanistan, numerous government and independent panel reports document the lack of Contracting Officer Representatives (CORs) and the excessive ad hoc contracting of private contractors in general and PSCs in specific. This dire lack in the ability to monitor resulted in massive cost overruns, waste, and fraud in the use of contractors, as reported by SIGIR, SIGAR, CRS, OMB, and the Commission on Wartime Contracting (which found between \$31 and \$60 billion to have been lost due to waste).⁸⁸³

Ad hoc contracting and monitoring of security services, similar to the way the U.S. contracted PSCs in Iraq and Afghanistan, is hardly the best way for the UN to contract PSCs. Clear and comprehensive laws, regulations, and policy guiding the use of PSCs would benefit the UN (and PSCs) as it expands the use of armed and unarmed private security services into peacekeeping operations worldwide.⁸⁸⁴ As Santayana wrote in 1906, "Progress, far from consisting in change, depends on retentiveness... Those who

⁸⁸² Ibid., 60.

⁸⁸³ Contracting, "Transforming Wartime Contracting: Controlling Costs, Reducing Risks - Final Report."; Schwartz, "DoD's Use of PSCs."; Special Inspector General for Iraq Reconstruction (SIGIR), "Quarterly Report to Congress," (Washington, DC: SIGIR, April 2012); (SIGAR), "SIGAR Quarterly Report."

⁸⁸⁴ Østensen, "UN Use of Private Military and Security Companies: Practices and Policies."

cannot remember the past are condemned to repeat it.”⁸⁸⁵ In this case, the past is recent (Iraq and Afghanistan) and should be difficult to forget. The UN is currently using and increasing the use of PSCs⁸⁸⁶—it would be wise to incorporate comprehensive accountability measures and a unitary policy before increasing their use. Reputable PSCs claim to be in favor of clear regulation and lines of accountability.⁸⁸⁷

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PSCs have made a point of creating an image of self-regulation. Lobbying groups, such as the International Stability Operations Association (ISOA) and British Association of Private Security Contractors (BAPSC), promote codes of conduct and have made their acceptance a requirement for membership to their trade organizations.⁸⁸⁸ Recently in a continuing effort to improve its image, Academi (previously Blackwater Worldwide, then Xe Services) recruited and hired former Attorney General John Ashcroft as their lead ethics agent. Public relations efforts to show that PSCs are responsible actors and can self-regulate have grown stronger in light of the increase in allegations of misconduct or human rights abuses by contractors. Dickinson recommends that governments or contracting authorities “...require contract firms to install internal accountability agents with a role comparable to that of uniformed lawyers in the military. Such agents should be responsible for training employees, monitoring their actions, tracking abuses, and imposing sanctions in the case of such abuses.”⁸⁸⁹ Whether or not former AG John Ashcroft is the best person to add credibility to Academi has yet to be determined.

⁸⁸⁵ George Santayana, *The Life Of Reason* (London,: Constable, 1954), 284.

⁸⁸⁶ Østensen, “UN Use of Private Military and Security Companies: Practices and Policies.”; Pingeot, “Dangerous Partnership.”; Pingeot, “Interview with Ms. Lou Pingeot, Program Coordinator, Global Policy Forum.”; Smith, “Interview with Adam Smith, Researcher, International Peace Institute.”

⁸⁸⁷ Duelge, “Ethical Lessons On Contractor Value,” 372–74.

⁸⁸⁸ See International Stability Operations Association (ISOA), “ISOA Code of Conduct,” ISOA, <http://stability-operations.org/files/files/S%20800%2013%20EN%20T%20-%20Code%20of%20Conduct%20-%20English%20%28Letter%20Size%29.pdf>; British Association of Private Security Companies (BAPSC), “Charter - International Code of Conduct (ICOC) for Private Security Providers,” BAPSC, <http://www.bapsc.org.uk/?keydocuments=charter>.

⁸⁸⁹ Dickinson, “Outsourcing Covert Activities,” 525.

As previously noted, Dickinson's four mechanisms of accountability and constraint may be sufficient; however, they are rarely used in regulating PSCs or their employees.⁸⁹⁰ It is not a lack of laws or federal statutes—more laws will not solve the accountability problem.⁸⁹¹ As Dickenson writes, "...the problem of legal accountability is not so much a deficiency of law on the books as it is a failure of law in action."⁸⁹² Although private contractors have gotten a good deal of press on misconduct, abuses, fraud, and criminal activity, there are very few examples of prosecutions for this well-documented misbehavior. For example, it was not until 2006 that the first U.S. civilian, David Passaro, a former CIA contractor, was convicted of prisoner abuse.⁸⁹³ Although the military guards who committed abuses at Abu Ghraib were punished under the Uniform Code of Military Justice (UCMJ), none of the private contractors conducting interrogations there were convicted of any wrongdoing. Federal authorities indicted the Blackwater private security personnel who killed 17 civilians in Nisour square, however, charges were eventually dismissed because it was discovered that the prosecution relied on compelled statements during a prior inquiry.⁸⁹⁴ Even though the Iraqi government and U.S. military officials found the shootings to have been unjustified, combined with five separate investigations, including one by the FBI, and there was a large amount of evidence against the Blackwater shooters, including a good deal of eyewitness testimony, not one of the shooters was ever convicted of a crime.

Criminal proceedings against other contractors accused of wrongdoing have also never made it to trial. In fact, other than Passaro, the only three contractors convicted of crimes relating to abuses committed while under contract were prosecuted under the Military Extraterritorial Jurisdiction Act of 2000 (MEJA) and the UCMJ; two

⁸⁹⁰ Legal; contractual; public participation; and organizational constraints. *See Ibid.*, 525–27.

⁸⁹¹ Dickinson, *Outsourcing War And Peace : Preserving Public Values In A World Of Privatized Foreign Affairs*, 43.

⁸⁹² Dickinson, "Outsourcing Covert Activities," 525.

⁸⁹³ Michael Hayden, "Statement to the CIA Workforce by Director Hayden On the Conviction of Former CIA Contractor David Passaro," in *Statement On Conviction of Former CIA Contractor Passaro* (Langley: Central Intelligence Agency, 17 August 2006).

⁸⁹⁴ U.S. District Court, "U.S. v. Paul A. Slough, Nicholas A. Slatten, Evan S. Liberty, Dustin L. Heard, and Donald W. Ball," (Washington, DC: District Court for the District of Columbia, 2009).

were convicted for stabbing co-workers and one for possession of child pornography.⁸⁹⁵ Based upon the sheer magnitude of allegations as well as documented cases of abuse and criminal activity perpetrated by contractors overseas, there are very few cases of contractors being held accountable for criminal activity or abuses.⁸⁹⁶ As Melina Milazzo of Human Rights First points out, “It defies logic that a U.S. soldier who commits a crime abroad can be held accountable under U.S. law, but a private contractor who commits the same exact crime may not.”⁸⁹⁷ This many years after the Nisour Square incident of 2007, U.S. courts still do not have criminal jurisdiction over all PSCs hired by the U.S. Government who commit crimes abroad.⁸⁹⁸

The increase in the coming-to-light of criminal acts committed by PSC personnel over the past ten years, from torture at Abu Ghraib and Guantanamo Bay (GTMO) to the “rape and enslaving of young girls in the Balkans,”⁸⁹⁹ has created public outrage resulting in worldwide demands that those responsible be brought to justice. Even though there have been a “host of reforms to improve coordination and control over P[S]Cs in Iraq,”⁹⁰⁰ criminal accountability has failed to produce any convictions, but Jenny Lam argues that the Alien Tort Statute (ATS) has been underutilized.⁹⁰¹ The ATS (also called the “Alien Tort Claims Act” (ATCA)) is the primary mechanism by which aliens may receive relief in U.S. courts from human rights violations committed against

⁸⁹⁵United States, “United States v. Aaron Bridges Langston,” in *CR-07-PHX* (Arizona: Indictment, 27 February 2007); U.S. Attorney for the Eastern District of VA, “Military Contractor Sentenced for Possession of Child Pornography in Baghdad,” ed. Press release (Alexandria: U.S. Attorney for the Eastern District of VA, 25 May 2007). *As Cited In* Dickinson, *Outsourcing War And Peace : Preserving Public Values In A World Of Privatized Foreign Affairs*: 55–60.

⁸⁹⁶ See for example Martin Ottmann, “The War Profiteers - War Crimes, Kidnappings & Torture: The Activities of the U.S. Military, the CIA & their Contractors,” Expose-the-war-profiteers.org, <http://www.expose-the-war-profiteers.org/index.html>; (POGO), “Federal Contractor Misconduct Database.” See also Committee on Armed Services, *Contracting in a Counterinsurgency: An Examination of the Blackwater-Paravant Contract and the Need for Oversight*, Second Session, 24 February 2010.

⁸⁹⁷ Bowser-Soder, “Need to Close Accountability Gap,” article, website, www.humanrightsfirst.org.

⁸⁹⁸ Ibid.

⁸⁹⁹ Sheehy, Maogoto, and Newell, Legal control of the private military corporation: 60.

⁹⁰⁰ Jenny S. Lam, “Accountability of Private Military Contractors Under the Alien Tort Statute,” *California Law Review* (CLR) 97(2009): 1463.

⁹⁰¹ Ibid., 1464.

them outside the United States. Two cases connected to PSC personnel have gone before U.S. courts under the ATS and both have been dismissed; however, as Price points out, it is jurists' decisions which will stand to begin to establish international legal norms.⁹⁰²

Although ATS is a U.S. statute and not international law, the more cases that can be filed and prosecuted under the ATS, the more that a foundation of customary law can be established with regard to PSCs, contributing to international legal norms. Because the United States has shown complicity in agreements which regulate PSCs, and has shown a willingness to make the necessary modifications to domestic law to reign in PSCs and hold them accountable (e.g., the “amendment to the UCMJ to subject military contractors supporting the Armed Forces during contingency operations to court-martial jurisdiction, and...the extension of MEJA to cover certain non-DoD contractors working with the military overseas,”⁹⁰³) it would be difficult for the United States to claim persistent objector status to any developing treaties or instruments which would allow the United States to be excluded from customary law.⁹⁰⁴ Even if the United States could claim a position of persistent objector, as Price notes, “[a] rule need not be universally followed, just widely defended to establish international customary law.”⁹⁰⁵ Once established as customary international law, enforcement will have the “teeth” that so many are demanding since the International Criminal Court will have jurisdiction over even non-party states. Increased utilization of the ATS is one more reinforcement to the

902 Richard Price, “Emerging Customary Norms and Anti-Personnel Landmines,” in *The Politics of International Law*, ed. ed. Christian Reus-Smit (Cambridge: Cambridge University Press, 2004), 29.

903 Jennifer K. Elsea, “Private Security Contractors in Iraq and Afghanistan: Legal Issues,” (Washington, DC: Congressional Research Service, 7 January 2010), 29. “Under the authority of international law, contractors and other civilians working with the military are civilian non-combatants whose conduct may be attributable to the United States.” Elsea cites the American Law Institute, *Restatement (Third) of The Foreign Relations Law of the United States* § 207 (1987).

904 Claiming status as a “persistent objector” to international regulation of PSCs would help reinforce a U.S. case that customary international law did not apply.

905 Price, “Emerging Customary Norms,” 113.

creation of the necessary legal norms which will result in soft law with the transformative power to become “internalized” finalizing into both domestic and international hard law.⁹⁰⁶

e. Legitimacy

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Because determinations of legitimacy have normative dimensions, especially with regard to interveners such as the UN, regional organizations, states, militias, or PSCs, it is necessary to review legitimacy with regard to humanitarian intervention. According to James Pattison, “legitimacy is used to mean that humanitarian intervention is legal, accepted by the international community, procedurally justified, authorized by the Security Council, and/or morally justifiable.”⁹⁰⁷ But this definition opens up a can of worms since every proposition needs to be analyzed for every case in order to determine legitimacy for each case of humanitarian intervention. Moreover, a once-and-done determination does not qualify as *carte blanche* for an intervener to operate without guidance from those who grant legitimacy, e.g., government, international community, civil society. As was noted earlier in this dissertation, determinations of legitimacy as a consequence of effectiveness may be a sufficient, but not necessary, factor in conducting peacekeeping.⁹⁰⁸

Because of this normative dimension of legitimacy, as well as perception and misperception of what PSCs are (and are not), PSCs have not earned themselves a name for legitimacy. One of the PSC industry’s biggest complaints is that, as David Isenberg, author of *Shadow force: Private Security Contractors in Iraq*, puts it, PSCs have a “pity-me-pity-me-the-big-bad-mainstream-media-is-out-to-get-us attitude.”⁹⁰⁹ He

906 Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change,” *International Organization* (The IO Foundation and the Massachusetts Institute of Technology) 52, no. 4 (Autumn 1998): 895.

907 Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene?*: 30.

908 Legitimacy as a consequence of effectiveness also falls under Ian Hurd’s expanded concept of the “favorable-outcomes” approach to legitimacy, i.e. “legitimacy is ultimately derived from the production of material pay-offs and the satisfaction of perceived self-interests.” Hurd, *After Anarchy*: 66–70.

909 David Isenberg, “Chapter 12,” in *Huff Post Business* (Huffington Post, 29 April 2012).

bases this on claims by PSC industry leaders that PSCs are “mischaracterized by the media (albeit sometimes intentionally to ensure a sensational impact).”⁹¹⁰

However, much truth there is to the “blame the contractors” perspective, there appear to be a greater amount of abuses by UN peacekeepers than by all U.S. contractors combined, not just security contractors.⁹¹¹ For example, the UN database on “Allegations for all Categories of Personnel Per Year (Sexual Exploitation and Abuse)” reveals 498 cases of sexual exploitation and abuse over a five-year period.⁹¹² The Federal Contractor Misconduct Database reveals only seven human rights abuses by contractors for the same five-year period.⁹¹³ This number does not, however, include contractor instances of misconduct other than human rights abuses. For all cases of misconduct, there were 521 instances of contractors acting badly.

Generally, reported abuses alleged against peacekeepers involve human rights abuses, where abuses by contractors are more often in the waste, fraud, and abuse categories.⁹¹⁴ Even considering this fact, the UN still maintains a legitimacy factor that PSCs do not. Whether this is attributable to intentionally mischaracterization by the media for a sensational impact against PSCs is debatable.⁹¹⁵ However, merely placing

⁹¹⁰ Duelge, “Ethical Lessons On Contractor Value,” 349.

⁹¹¹ UN database on Human Rights Abuses, <http://cdu.unlb.org/Statistics/AllegationsbyCategoryofPersonnelSexualExploitationandAbuse/AllegationsforAllCategoriesofPersonnelPerYearSexualExploitationandAbuse.aspx>, and Project on Government Oversight (POGO) “Federal Contractor Misconduct Database,”

⁹¹² UN Conduct and Discipline Unit, “Allegations for All Categories of Personnel Per Year (Sexual Exploitation and Abuse)” <http://cdu.unlb.org/Statistics/AllegationsbyCategoryofPersonnelSexualExploitationandAbuse/AllegationsforAllCategoriesofPersonnelPerYearSexualExploitationandAbuse.aspx>. Accessed 9 May 2012

⁹¹³ Project on Government Oversight “Federal Contractor Misconduct Database,” <http://www.contractormisconduct.org/index.cfm/1,73,224,html?pnContractorID=0&pstDispositionTypeID=0&prtCourtTypeID=0&mcType=15&eaType=0&ContractType=0&dollarAmt=-1%2F-1&dateFrom=01%2F01%2F2007&dateTo=05%2F10%2F2012&submit=sort>. Accessed 9 May 2012.

⁹¹⁴ *See the following* Oversight, “Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors.”; Gerstenfeld, “What about UN crimes?”; (POGO), “Federal Contractor Misconduct Database.”

⁹¹⁵ *See* Doug Brooks’s discussion in Duelge, “Ethical Lessons On Contractor Value.”; Isenberg, “Chapter 12.” Isenberg’s review

the UN stamp on PSCs does appear to have the effect of granting legitimacy.⁹¹⁶ In the late 1990s and early 2000s, when PSCs were expanding into conflict/post-conflict (CPC) areas commensurate with the growth of intervention peacekeeping, one company, ArmorGroup (previously Defence Systems Ltd. (DSL)) was one of only a few PSCs to have contracts with the PSC-shy UN.⁹¹⁷ And as Brooks confidently writes, “The UN contracts “legitimize” ArmorGroup in the eyes of many African governments, indicating a rosy future for the company on the continent.”⁹¹⁸ This declaration of a “rosy future” has certainly proven true as ArmorGroup is now one of the largest and most active PSCs operating in Africa with contracts worth millions. As has been previously discussed, there are a variety of ways through which PSCs could gain legitimacy.⁹¹⁹ Working with the UN could also function to confer a sense of legitimacy to PSCs since they then take on the symbols that derive from the UN.⁹²⁰ Whether or not PSCs can continue to learn

lessons from the past and apply them to present and future operations will directly affect their legitimacy, regardless of whether or not they are effective at carrying out their contract(s)

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Because legitimacy and PSCs was covered in much greater detail in Chapter IV, I will only summarize here. PSCs do not have the legitimacy that the UN or ROs or governments have (especially democratically elected governments who adhere to human rights norms). PSCs may in certain circumstances demonstrate effectiveness;

⁹¹⁶ Kevin O’Brien, “Freelance Forces: Exploiters of Old or New-Age Peacebrokers?,” *Jane’s Intelligence Review* (1 August 1998). Cited in Brooks, “Private Military Service Providers: Africa’s Welcome Pariahs..”

⁹¹⁷ David Isenberg, “Combat for Sale, the New Post-Cold War Mercenaries,” *USA Today Magazine* 1 March 2000.

⁹¹⁸ Brooks, “Private Military Service Providers: Africa’s Welcome Pariahs..,” 7.

⁹¹⁹ For example, multilateralism, prevailing political context, humanitarian credentials, effectiveness, etc. Heinze, *Waging humanitarian war : the ethics, law, and politics of humanitarian intervention*; Pattison, *Humanitarian intervention and the responsibility to protect : who should intervene? See Ch. VI of this dissertation for a more complete discussion on legitimacy.*

⁹²⁰ For a discussion on the importance of symbols in establishing legitimacy, see Hurd, *After Anarchy*: 112–36.

however, PSCs do not have the humanitarian credentials that international organizations or collections of states retain. Nor do PSCs conduct their operations multilaterally in the same manner in which international organizations or ROs conduct operations, working together non-competitively, and toward common humanitarian goals. One of the primary reasons for this is that PSCs' motives are selfish, that is, they are profit-seeking; their final interests do not lie in peace, stability, or human security. Their ultimate goal is to let contracts that make them money; if peace, stability, and human security are in the contract, PSCs will work to achieve those obligations—to the limits of the contract.

Effectiveness is one way in which PSCs can earn legitimacy, but unlike governments, PSCs are far less permanent and do not have the same level of international backing that a collection of states retain. Moreover, the extent to which PSCs may be effective is often offset by criminal acts and human rights abuses that go unpunished, such that human security overall may be degraded by their presence in C/PC areas; this, in turn can result in the creation of a negative prevailing political context.⁹²¹ Lack of accountability (or perceived lack of accountability) not only affects legitimacy, but as Melina Milazzo of Human Rights First states, "...it also alienated local populations and undercut the United States' military efforts in Iraq and Afghanistan."⁹²² Moreover, for the UN to confer its own legitimacy on to PSCs is risky since this "laundering" of what may be perceived as unethical actors through the "legitimizing machine" of the Security Council could actually further deteriorate the UN's own legitimacy. The UN certainly does not need further questions of credibility or damage to their legitimacy through hiring PSCs for peacekeeping.

There are those who argue that the globalization of PSCs has made them in many ways above the law—that they are able to bypass local or national regulation because of their transnational nature and scope.⁹²³ Peter Singer has noted that "given the ability of [PSCs] to globalize and escape local regulation, [a system to regulate PSCs]

⁹²¹ For a discussion on three necessary factors for legitimacy, see Heinze, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention*, 117–25.

⁹²² Bowser-Soder, "Need to Close Accountability Gap."

⁹²³ Sheehy, Maogoto, and Newell, *Legal control Of The Private Military Corporation*, 170.

must be international to be effective.”⁹²⁴ It is within the realm of international regulation and consistency of practices that the Montreux Document, the International Code of Conduct for Private Security Providers (ICoC), and other international legal norms seek to solve many of the problems inherent in a system where private citizens can carry out “legitimized” acts of force or violence (or both) across state boundaries. However, making it increasingly difficult, in many cases, these actions by individuals and corporations are mired in multiple levels of contracts and subcontracts, shifting personnel and employment records, and intermingled between government and private industry. Until the accountability gaps can be closed, either through enforceable laws, or through consistent and aggressive monitoring and evaluation, legitimacy will continue to prove elusive for PSCs—even if they are effective.

f. Human Security/Human Rights

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PSCs are doing good things worldwide in stability, reconstruction, and humanitarian operations. Working with NGOs, IOs (such as the UN), ROs (such as NATO), states, and other private organizations, the work of PSCs has spread to nearly every C/PC, SSR/DDR, and HA/DR mission there is. PSCs can be found guarding embassies, food distribution networks, logistics trains, and IDP camps, or they can be found in private security details (PSDs) guarding in-country assessors and diplomats. Not every PSC is a Blackwater or a G4S, failing in their contracted mission(s).⁹²⁵ The majority silently and effectively carry out their contracted missions, provide services at competitive prices, and adhere to international codes of conduct as well as their own aspirational standards of self-regulation.

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⁹²⁴ Singer, “War, Profits, and the Vacuum of Law: Privatised Military Firms and the International Law,” 544.

⁹²⁵ Blackwater’s failings are notorious primarily because of the Nisour Square incident which left 17 innocent civilians dead. G4S, the largest PSC in the world (and one of the largest companies in the world), failed to provide even half of the contracted security for the 2012 Olympics. *See for example*, “G4S fiasco revealed limitations of private sector, admits Defence Secretary Philip Hammond.”

It would be redundant to reiterate previously discussed human rights abuses by PSCs here, since they can rightly be assumed to be cons to human security and human rights. Therefore, attention here will be instead paid to a considerable human rights problem in which PSCs have been embroiled: trafficking in persons (TIP)—and not just for sexual exploitation and abuse (SEA), as many might expect.⁹²⁶ A number of allegations hold that PSCs have been hiring TCNs, promising them large sums of money for out-of-country work, then transporting them to the host state (the state in which they will be conducting security duties), confiscating their passports, withholding pay, and restricting them from leaving, and holding them essentially “hostage.”⁹²⁷ These allegations are also supported by a 2012 State Department report on TIP, in which it reports that TCNs from countries such as “Bangladesh, India, Indonesia, Nepal, the Philippines, Sri Lanka, Thailand, Pakistan, Georgia, Jordan, and Uganda ...are subsequently subjected to involuntary servitude as construction workers, security guards,...”⁹²⁸ Following allegations in 2006 of TIP in Iraq, the DoD conducted an investigation which found that labor trafficking and human rights abuses were widespread. From the investigation, DoD issued a policy statement to “ensure the U.S. employs a ‘zero tolerance’ policy against human trafficking.” Following the investigation that found that, Najlaa, a company which included security services alongside catering services, construction and other jobs, had confined more than 1,000 Sri Lankan, Nepali, and Indian TCNs “to a windowless warehouse without money or work for three months,” the Department of Justice (DoJ) reviewed the case and found that “while certainly disconcerting, the facts and circumstances did not suggest that

⁹²⁶ David Isenberg and Nick Schwellenbach, “Documents Reveal Details of Alleged Labor Trafficking by KBR Subcontractor: The Najlaa Episode Revisited,” in *Project on Government Oversight Blog & The PMSC Observer* (Project on Government Oversight (POGO), 14 June 2011).

⁹²⁷ Ibid.

⁹²⁸ Department of State (DoS), “Trafficking in Persons Report 2012,” ed. Office to Monitor and Combat Trafficking in Persons (Washington, DC: Department of State (DoS), 2012). *See, for example*, section on Iraq, where many TIP crimes occurred throughout U.S. occupation and continue to this day.

Human Trafficking Violations had occurred.”⁹²⁹ As a result, the prime contractor, KBR, retained its contract with the U.S. government and Najlaa still operates to this day under contract to KBR. As Isenberg writes, “Is it really ‘zero tolerance’ when there are no repercussions?”⁹³⁰

When one thinks of PSCs committing human rights abuses, TIP is not usually the first one that comes to mind; however, the practice of promising big salaries, then paying very little, if anything, once in country, has become quite prevalent.⁹³¹ In interests of efficiency and cost savings, PSCs have resorted to not only sub-sub-contracting as has been discussed earlier in this paper, but outsourcing their own services at the lowest levels and for the least cost. Estimates of the percentage of LNs and TCNs used by PSCs overseas range between 90 percent and 99 percent.⁹³² What results are not only offenses to those doing the work for very little if any pay, but this practice also raises questions about the quality of security, and to whom they are ultimately accountable. Although it is true that many of the TCNs used in security services are unarmed—most guard buildings or equipment—their responsibilities are no less important.

Retired Ambassador Kenneth P. Moorefield, a deputy inspector general at the Defense Department, testified recently on prosecuting contractor-related TIP cases, and his comments are germane to all crimes which may be committed by contractors working overseas, whether they be security contractors or merely providing logistical support. In written testimony, he stated, “There have been systemic obstacles which have hindered successful TIP criminal investigations, including jurisdiction limitations, foreign law enforcement capabilities, command investigative standards of evidence, and the

⁹²⁹ Shreeya Sinha, “Trafficked Into Tragedy: Abuse of Immigrant Workers in Afghanistan and Iraq,” *New York Times*, 9 July 2012. Cited in David Isenberg, “What the U.S. Government Knew About Najlaa,” (Washington, DC: Huffington Post, 2012).

⁹³⁰ Schwellenbach, “The Najlaa Episode Revisited,” David Isenberg, blog, Huffington Post, website, www.huffingtonpost.com.

⁹³¹ See for example, (DoS), “Trafficking in Persons Report 2012.”

⁹³² Brooks; Mark Lumer, “Private Security Contracting,” in *Seminar on Logistics Cooperation for Stabilization and Reconstruction* (Duke University, Durham NC: Center for Stabilization and Economic Reconstruction, 27 October 2011).

challenges of evidence collection in contingency operation contracting environments.”⁹³³ As an example of how difficult prosecution is, just with regard to TIP cases, “since 2006 the Defense Criminal Investigative Service of the DoD Office of Inspector General has investigated 21 TIP-related allegations worldwide, resulting in five cases being referred to the Department of Justice, of which one was accepted for prosecution.”⁹³⁴ The ACLU recently authored a report on the extensivity of TIP and SEA crimes and found that:

*[A]ccountability exists in theory but not in practice: to date, the U.S. government has yet to fine or prosecute a single contractor for trafficking—or labor-related offenses. Despite having the authority to suspend and terminate contracts with both prime and subcontractors, government agencies have never exercised this authority.*⁹³⁵

With the increase in PSCs around the globe came new problems: A lack of standardization; inability to monitor, as well as questions of who is doing the monitoring; poor or inconsistent enforcement and legislation—both at the state and international levels; and lastly, and not least important, were questions of human rights violations which arose regarding the methods by which PSCs conducted business. It is the responsibility of the UN Human Rights Council (UNHRC) to “monitor the impact of the activities of [PSCs] on the enjoyment of human rights and to prepare draft international basic principles that encourage respect for human rights on the part of those companies.”⁹³⁶ But what actual power over these multinational firms does the UNHRC really have anyway? It does not have a great deal of actual power or control over them; to “encourage” is not the same as “hold accountable.” A good start would be to begin by

⁹³³ Kenneth P. Moorefield, “Statement of Ambassador (Ret.) Kenneth P. Moorefield, Deputy Inspector General for Special Plans and Operations, Department of Defense Inspector General before the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform, House Committee on Oversight and Government Reform on Human Trafficking,” In *Statement of Kenneth P. Moorefield on TIP*. (Washington, DC: Inspector General, Department of Defense, 27 March 2012), <http://oversight.house.gov/wp-content/uploads/2012/03/3-27-12-TechIP-Moorefield.pdf>.

⁹³⁴ *Ibid.*

⁹³⁵ American Civil Liberties Union (ACLU), “Victims of Complacency: The Ongoing Trafficking and Abuse of Third Country Nationals by U.S. Government Contractors,” (New Haven: Allard K. Lowenstein International Human Rights Clinic, Yale Law School, June 2012).

⁹³⁶ Jose L. Gomez del Prado, “Private Military and Security Companies and the UN Working Group on the Use of Mercenaries,” *Journal of Conflict and Security Law* C&S Law 2008, no. 13 (2008).

standardizing and reinforcing regulatory mechanisms, establishing clear contracting guidelines, and operationalizing effective monitoring and control.

2. Conclusion

These pros and cons clearly do not represent every problem or every benefit that there may be to hiring private security contractors for peacekeeping. However, I have included a representative sample of both sides of the issue which exemplifies the crux of the debate, where it stands among different groups, and where it is leading. The increase in the use of PSCs by the UN, especially in recent years, is part of a much larger trend toward creating a “culture of security,” not only for the populations and communities in which the UN is working, but for UN officials and personnel working in dangerous or C/PC environments.⁹³⁷ In the wake of UN failures to respond effectively in places like Rwanda or Bosnia, the UN’s shift in the late 1990s from merely “observing,” to peace enforcement and robust peacekeeping in order to prevent R2P crimes and protect civilians has placed them more in harm’s way than ever before. At the same time, greater intervention has brought the UN more criticism from those claiming that it has become a puppet of Western domination.⁹³⁸ The UN will continue to be the lead organization for intervention into sovereign states through peacekeeping, but its continued relevancy and legitimacy will constantly be up for reevaluation by the states that support or are supported by it; effectiveness is a key factor in perceptions of legitimacy. If the UN is unable or unwilling to act to stop violence against persons or any of the R2P crimes when states are not taking action (for whatever reason, e.g., will, capability, etc.), then its power and legitimacy can become eroded, contributing to the UN’s marginalization as a valuable instrument of foreign policy.

⁹³⁷ Brahimi, “Towards a Culture of Security.”

⁹³⁸ Ibid., 70, para. 269. The perception that the UN is a puppet for the Great Powers also acts to delegitimize it, especially for those other countries without the power to sway the UN to act on their behalf.

One of the main things this dissertation has shown is that human security must be a critical factor in determining how to conduct peacekeeping and how the protection of civilians is vital in situations where potential for harm or violence exists. The literature bears this out in UN reports ranging from the annual Human Security Reports to the Capstone Document to the UN's *ten rules: code of personal conduct for blue helmets*. PSCs will not be going away any time soon and their use by the UN organization is not likely to decrease in the near future.⁹³⁹

⁹³⁹ Kinsey, *Corporate soldiers and international security*. General Dempsey, the Chairman of the Joint Chiefs of Staff also addressed this issue stating that military contracting services have always been in use by the military and will be around as long as we have a military; the key is in identifying the bounds of their involvement through properly defining “inherently military functions” and ensuring they remain within the military domain. Chairman Joint Chiefs of Staff General Martin E. Dempsey, “Lecture to Naval War College,” ed. CDR Daniel G. Straub (Naval War College, Newport, RI 18 October 2012).

VIII. RESEARCH LIMITATIONS, FUTURE RESEARCH OPPORTUNITIES, POLICY APPLICATION, AND CONCLUSION

A. RESEARCH LIMITATIONS

This dissertation is limited in that PSCs have not conducted peacekeeping for the UN. Therefore, evaluating them in order to come up with an answer one way or another would be based upon insufficient data. The available data finds that traditional, state-sponsored, peacekeepers have committed more sexual exploitation and abuse (SEA) human rights violations than have PSC employees, but that PSCs have committed far more waste, fraud, and abuse violations than have peacekeepers. This does not mean, however, that if PSCs were accepted by the UN to conduct peacekeeping they would not commit a similar (or proportional) number of SEA or TIP abuses. This also does not mean that peacekeepers are better stewards of resources than PSCs. Moreover, a sufficient number of studies have not been conducted to show definitively that one group commits more human rights abuses or wastes resources more than another.

UN peacekeeping operations are costly, and using figures from numerous missions shows that, frequently, costs seem excessive especially when success can take much longer than expected and when compared alongside the costs of short-term PSC operations. The efficiencies that PSCs claim have not been sufficiently tested in order to show that they are, in fact, cheaper than government or public forces. Moreover, the long-term commitment of PSCs to human rights has also always been questioned since, it is argued, they are driven by one thing, profit. But if this is the case, then they should be free of bias and most likely to live up to the UN's credo of impartiality and neutrality, therefore enhancing their legitimacy and ultimately their effectiveness.

PSCs claim to have brought peace to countries such as Angola and Sierra Leone. But it was not lasting peace; and in the end, human security was negatively affected because conflict resumed and was prolonged by PSC actions. Some UN peacekeeping missions have failed, like Somalia, Bosnia, and Rwanda, allowing extreme violence to

occur unchecked. But many peace support operations have brought peace to countries like El Salvador, Namibia, and Timor Leste.⁹⁴⁰

Can PSCs do peacekeeping with legitimacy, accountability, impartiality, and neutrality effectively all while recognizing and respecting human security and protecting human rights? These are all things that cannot be known based upon existing data. But what can be known is that human security is the one measure that the UN must use when deciding what the right actions to take are in response to crisis, conflict, or disaster. As the Secretary-General stated in a report in 1999, “The protection of civilians...is fundamental to the central mandate of the organization.”

Sufficient empirical data does not exist in order to make a determination of whether or not PSCs *can* conduct peacekeeping for the United Nations, but if there is a question of stopping a genocide and no state is willing to provide troops or the UN cannot get troops on the ground quickly enough, PSCs should be considered. However, it is clear from my interviews with UN officials, researchers, and scholars that the UN is a long way from considering the use of PSCs in actual peacekeeping missions. This is in spite of the fact that it has been acknowledged to me in interviews with senior UN officials and Security Officers at UNDSS that PSCs have increasingly been used to protect UN officials, personnel, and equipment, especially when working in crisis areas where a sanctioned mission has not yet been authorized by the Security Council.⁹⁴¹ Procurement

⁹⁴⁰ Howard, *UN Peacekeeping In Civil Wars*, 21–51.

⁹⁴¹ #1, “Interview with UNDPKO Official #1.” UNDSS Official #1, “Interview with United Nations Department of Safety and Security Official #1,” in *United Nations Interviews*, ed. CDR Daniel G. Straub (United Nations Complex, New York, NY 21 June 2012). UNDSS Official #2, “Interview with United Nations Department of Safety and Security Official #2,” in *Interview with UNDSS Official #2*, ed. CDR Daniel G. Straub (United Nations complex, New York, NY 20 June 2012).

All interviews with United Nations officials were based upon an agreement of non-attribution due to the subject nature of my research. None were willing to answer questions that could potentially be interpreted as speaking to (or in contrast to) UN policy/guidance. In cases where responses fell along UN policy guidelines, the citations and references used were official UN documents, the UN website, authorized UN publications, or media releases.

and contract data available on the UN's website shows a drastic shift in the increased use of security services after 2008—when the UN report, “Towards a Culture of Security and Accountability” came out.⁹⁴² This increased use may ultimately lead to a wealth of data on the use of PSCs by the UN. Since PSC personnel are working closely with the UN in so many locations and in so many capacities, this increased contact may lead to further enmeshment of PSCs in the peacekeeping process. Data on evaluation of the capability of PSCs to work within the UN system, with UN troops, for UN officials, or in joint operations/ventures may provide deeper insight than was available when this dissertation was written.

B. FUTURE RESEARCH: CHALLENGES AND OPPORTUNITIES

As PSCs learn to navigate the UN system as they learned to navigate the U.S. system, adapting quickly to changing requirements in Iraq and Afghanistan, it is likely that PSCs will adapt to fit into peacekeeping. As this occurs, policies for PSC-use by the UN will emerge, regulations will be created or modified, and an entirely new area for study will grow from the increased privatization of previously UN-only functions.

There is no question that PSC motives will remain as they have always been: profit. But this may not be necessarily a bad thing. PSC executives make no excuses for the fact that what they do is for money.⁹⁴³ They do, however, claim that just because they work for financial gain does not mean that they have no integrity or loyalty or sense of right and wrong. In-depth research on whether profit can be a morally sound motive

The UN has also acknowledged recent increases in the use of PSCs to protect officials on mission, personnel, equipment, and buildings in unstable environments where peacekeeping missions have not (yet) been authorized by the SC. *See* Brahimi, “Towards a Culture of Security and Accountability.” Additionally, Østensen and Pingeot discuss the increased use of private security by the UN in their reports, *see* Pingeot, “Dangerous Partnership.” & Østensen, “UN Use of Private Military and Security Companies: Practices and Policies.”

⁹⁴² Brahimi, “Towards a Culture of Security and Accountability.”

⁹⁴³ For example, Eeben Barlow, former president of EO, Tim Spicer, former president of Sandline and AEGIS, and Doug Brooks, president of the International Stability Operations Association, all make this claim and readily acknowledge that profit is a motive. In fact, the name of one article by Brooks is “Write a cheque, end a war.” Brooks, “Write a Cheque End a War Using Private Military Companies to End African Conflicts.”

for using PSCs to stop genocides or ethnic cleansing or war crimes or crimes against humanity is an interesting proposition and could certainly use further investigation.

C. POLICY APPLICATION, OPTIONS, AND CONCLUSION

If the United Nations chooses not to use every available tool in order to stop the “scourge of war,” then it is likely that it will continue to fail in missions that require a robust set of instruments in order to secure peace. Moreover, the countries that have the most to lose—and the most to gain—may seek other means to achieve successful peace, or at least, an end to conflict. Based upon UN statements, interviews, and recent reports, there is a strong likelihood that regional organizations will take on a greater share of what were previously UN missions. Regional organizations do not have the same restrictions on intervention and “robust” peacekeeping or the same restrictions that the UN has placed on privatization of services. In order to accomplish varying goals in conflict, post-conflict, HA/DR, unstable and fragile areas, privatization of security may be necessary since the UN and the West have become much more selective in choosing engagements. In too many cases, engagement by the UN and the international community has been too little too late, and has been offered only after human rights abuses and atrocities committed on a massive scale have occurred or crisis has reached out-of-control proportions.

Many argue that recent events in Syria have far surpassed the threshold for intervention. Unfortunately, the time to engage is before the fighting, ethnic cleansing, or genocide begins, not after the sheer brutality and gruesomeness of the conflict brings international attention. If the UN is to remain a relevant, legitimate agency capable of responding effectively to crises worldwide, it will need to consider all resources available and begin to accept that in a changing world, one where Western countries are not supplying troops, budgets are being slashed, and resources depleted. The answer is not to reduce international effect, but to seek new ways to address problems collectively. The less the UN intervenes, the more regional organizations, other states, and other actors will get involved; this may be to the detriment of international stability. Splintered efforts at

conflict reduction through the use of various, non-aligned factions who are not representing the international community portends increased conflict and political instability.

In addition to drawing out findings that support the arguments for and against PSCs in peacekeeping, it can be seen across all case studies that conducting one method, one force, or one type of peacekeeping is rarely effective in the long-term. What the case studies bear out as necessary is an adaptable force that understands and adjusts to changing political, social, and economic landscapes. This force does not need to be one drawn only from national militaries or provided by the UN or “coalitions of the willing.” In the case of PSCs in Angola and Sierra Leone, they were successful not only because they understood the physical terrain, but because they understood the human terrain; they understood Africans and how Africans live and how they fight. These PSCs used local tribesmen, the Kamajors, to assist them, and in turn, they provided the Kamajors protection from the rebel soldiers, many of whom were not native to either Angola or Sierra Leone. These PSCs were extremely well-trained in combat and the use of force—this benefitted them when they needed to protect villages or assist the government troops in driving rebels out of villages and towns. They were also well-trained in working with the population. Many reports credit EO and Sandline for saving lives; some add that they were hailed as heroes and welcomed by the villagers when they made their way through towns. It was this integration of capability that enabled their success—in the short-term. What PSCs did not have was the staying power or the full spectrum of capabilities that the UN has at its command. Had these two very capable groups been able to work together toward one common goal, human security, failures such as Angola, Sierra Leone, Rwanda, Darfur, etc., may have never reached the epic proportions that they did. Even today, the capabilities of PSCs are being ignored in favor, in some cases, of doing little or nothing. The ISOA, representing a large number of PSCs (and other stability and reconstruction companies), drew up a proposal to help stop the ongoing genocide in Democratic Republic of Congo more than five years ago, but none of the extensive experience and capacity of those companies has been utilized. UN peacekeepers are failing to stabilize the country and they are failing to protect human security.

The findings of this dissertation show that a capable force can succeed at protecting people from violence in both the short- and the long-term, and that each is susceptible to failings of accountability, legitimacy, cost controls, and human rights violations. It is when the best that the world has to offer is used that positive results are achieved and human security can be perpetuated. When it has been made clear that the end goal is the protection of people and communities from violence, then every available option must be exhausted in securing that goal.

At this point in history, considering the pros and cons of PSCs in peacekeeping and the relative and objective weight of each, it becomes apparent that in the interest of human security and in the overall protection of human rights, using PSCs to take over entire peacekeeping operations is not recommended. However, this does not assume that there will not be a time when the UN may not again consider their use to stop R2P crimes, for PoC, and in the interest of human rights and human security. It may be that PSCs are used as part of a “coalition of the willing” as is mentioned in the Capstone Document as an option under Chapter VII when troops are not available or political will is insufficient to stop violence. Moreover, as has been seen in places such as Darfur, Rwanda, Bosnia, DRC, and now Syria, the costs of waiting, doing little, or doing nothing can be catastrophic. Rephrasing Kofi Annan’s famous statement as a question, “Is the world ready to privatize peace?”⁹⁴⁴ William Shawcross, author of *Deliver us from evil*, wrote of the Sierra Leone crisis:

*If we want to put the world to rights, and we’re not prepared to risk our own forces in doing so, then we should consider the employment of private security forces...If the South African mercenaries had been allowed to stay in Sierra Leone from ‘96 onwards a lot of children in Sierra Leone would still have their hands today.*⁹⁴⁵

⁹⁴⁴ Paraphrased reference to the oft-quoted Annan statement that the world may not yet be ready to privatize peace.

⁹⁴⁵ William Shawcross, “Interview with William Shawcross, author of “Deliver Us From Evil,”” (ABC TV, 29 August 2000).

PSCs are willing to step in whenever there is a need; however, this does not ameliorate, or worse, negate the responsibility of the state and the international community to exercise control.⁹⁴⁶ In fact, most PSCs welcome clear legal structure and guidance.⁹⁴⁷ PSCs need to be contracted by legitimate states in order to continue to gain contracts. Their corporate nature is such that they are not yet ready to take over entire missions; they do not claim the capacity to be able to carry out the full spectrum of foreign policy implementation and execution from cradle to grave of an entire peace support operation. One of the biggest contentions regarding PSCs is that their actions, especially with regard to combat, remove the monopoly of force held by the state. The Weberian notion that the use of violence and physical force is exclusively within the domain of the state is not challenged by the use of private security companies. The monopoly of force remains with the state as long as the state is controlling the force used.⁹⁴⁸ If legitimacy is derived from the state or recognized international organization, and it is states which form and empower international or regional organizations such as the AU, NATO, ASEAN, the EU, or the UN, and if PSCs are hired by legitimate states or organizations legitimized by states, then PSCs become legitimate actors.⁹⁴⁹ However, just because they are legitimate actors does not mean that they necessarily have *perceived* legitimacy, nor does this mean that their actions are legitimate. One argument holds that legitimacy is dependent upon effectiveness.⁹⁵⁰ Another holds that multilateralism, humanitarian credentials, and prevailing political context comprise the key factors to

⁹⁴⁶ See Bruneau's discussion on control: Bruneau, "Contracting Out Security."

⁹⁴⁷ See Brooks, Spicer, Barlow, and the majority of recognized private security providers.

⁹⁴⁸ Max Weber, Hans Heinrich Gerth, and C. Wright Mills, *From Max Weber: Essays in Sociology* (New York, : Oxford University Press, 1946), 78–79.

⁹⁴⁹ This may be "laundering legitimacy" to some extent, but the UN is very involved with protecting its reputation and values its legitimacy. Attempts to "launder" legitimacy have stimulated massive debates on the relevancy and value of the UN as an international organization; examples include Russian "peacekeepers" seeking UN validation even though the operations the Russians were conducting were military-based and self-interested; there is also the case of the U.S. seeking legitimacy for the invasion of Iraq in 2003. See Hurd, *After Anarchy*.

⁹⁵⁰ See Moderate Instrumentalist Approach. Pattison, *Humanitarian Intervention And The Responsibility To Protect : Who Should Intervene?*, 72–93.

legitimacy.⁹⁵¹ In the end, myriad factors play a role in determining whether PSCs can be a legitimate and effective tool used by states or organizations to fill gaps unmet by military or police forces. Whether or not they *should* be used is a question that needs to be applied to specific circumstances and is reserved for future research projects or analysis. What is most likely is that their use will be a hybrid one, where their demonstrated strengths, generally speed and flexibility are used to maximize effectiveness of instituting SC-mandated peacekeeping. Ideally, this use will be above-board, well-regulated, monitored, and controlled, not ad hoc and ill-planned, as much of the use of PSCs has been in the past.

The cons to the use of PSCs for peacekeeping have not gone away; the pros toward their use in peacekeeping have not gone away either. There will remain crises that need professional forces to keep the peace or create it if it is not there. The UN has proven that it does not always have the resources to accomplish the full measure of what it would take to create or sustain peace. As has been mentioned by too many authors to count, successful peacekeeping involves a multi-faceted approach that does not rely on a single prescriptive doctrine from which steps can be checked off until a peaceful conclusion is reached. There do not seem to be final definitive answers when it comes to finding “what works” in peacekeeping. It may be that the best answers lie in knowing the risks and weighing costs and benefits to each action taken. If that means the possible use of PSCs for peacekeeping, then eliminating them out of hand is an unacceptable proposition. The pros and cons must be fully understood in order to make informed decisions that ultimately protect people and create the foundations for sustainable human security. If PSCs can never be a part of that equation, then the reasons for *not* privatizing peacekeeping should be clear. However, if PSCs could conduct peacekeeping in a way that positively affects human security while being effectively controlled and held accountable, then it would be a travesty not to consider their use. Nikolaos Tzifakis, a researcher at the Centre for European Studies, sums it up well: “The implications of outsourcing security services to private agencies are not *a priori* positive or

⁹⁵¹ Heinze, *Waging Humanitarian War : The Ethics, Law, And Politics Of Humanitarian Intervention*.

negative...Ultimately, everything boils down to the way public and private actors deal with the questions of ‘when’ and ‘how’ to go about contracting out security services.”⁹⁵²

The UN is moving beyond R2P and toward protection of civilians (PoC), the idea of “Protect, Respect, and Remedy,”⁹⁵³ and human security, but it is clear that success is only found through mutual understanding and respect of these concepts. If contracted peacekeepers can: 1) effectively and efficiently perform the missions/mandates presented to them; 2) be effectively controlled and held accountable; 3) reinforce the legitimacy of the UN; 4) achieve those missions while enforcing and demonstrating respect for human rights and with the end-goal of peace and human security; then, PSCs should be considered. However, not one of the above four requisites have been demonstrated or proven, and the risk of testing theories of effectiveness or efficiency through privatization of peacekeeping just might not be something the world is ready for yet.⁹⁵⁴

*Smart development policy and practice should leverage the best that America has to offer, whether it comes from non-profit organizations, large companies, small business, universities, think tanks, or the government. The best talent and ideas reside in all those places, often times working together. It's not about who, it's about how well.*⁹⁵⁵

This statement holds true, not just for America, but for other states, the international community, and the United Nations. Working together and utilizing all that

⁹⁵² Tzifakis, “Contracting Out to PMSCs,” 54–55. Initially *cited in* David Isenberg, “The Devil Is Always in the Details,” (Washington, DC: Huffington Post, 25 July 2012). Peter Singer seems to concur with this statement as well when he writes, “The U.N. should also seriously explore the possibility of using the private market to get a better bang for its buck out of existing peacekeeping units,” *see* Singer, “Peacekeepers, Inc..”

⁹⁵³ John Ruggie, UN Secretary General’s Special Representative on Business and Human Rights, *cited in* White, “Regulatory Initiatives at the International Level,” 13–14.

⁹⁵⁴ I paraphrase Kofi Annan, who in 1996 actually said, “...the world may not be ready to privatize peace,” after considering the use of PSCs to stop the genocide in Rwanda. *Also see* Ranganathan, “Constructing Governance, but Constructive Governance? The Emergence and Limitations of a Dominant Discourse on the Regulation of Private Military and Security Companies.”; Annan, “Intervention.”

⁹⁵⁵ Betsy Bassan M. Charito Kruvant, Richard Dreiman, Asif Shaikh, Indira Ahluwalia, Jim Boomgard, Stan Soloway, “CIDC Statement on Divisive Policy Piece (Response to 18 July 2012 Foreign Policy article titled “Hired Gun Fight”),” (Washington, DC: The Coalition of International Development Companies (CIDC), 20 July 2012).

the world has to offer to reduce immiseration, improve human security and protect human rights are fundamentals to securing peace. If PSCs serve only to reduce human security and increase suffering, then their services should not be considered by the United Nations. But if more effective multilateral regulation or stronger political will is the cost to utilize one more potential means of preventing conflict or lessening suffering, then efforts need to be made to acquire those means.

This dissertation has presented a comprehensive review of pros and cons for the use of PSCs in peacekeeping. It has also presented a case for human security as the referent object of evaluation for determining the ultimate effectiveness of intervening actors. Using the concept of human security to answer the question of whether or not PSCs should be used in peacekeeping, this dissertation finds that they *should* be used when conditions require speed and flexibility and the UN is unable to provide troops to stop violence. What is required is a responsive and effective mix of intervention options to enable human security, and the right approach is to figure out what the mix looks like, i.e., where PSCs have a role and when, not if they are involved or not. The effective integration of PSCs is the UN's responsibility, and with effective integration, PSCs can have a useful role in peacekeeping. Without the right integration, it will not work. Referring back to the UN as a learning organization—the UN must develop a plan to best integrate and use the private sector to accomplish what needs to be done.⁹⁵⁶ This integration will require discussion and thought about the issue of PSC-use as an interactive problem; that is, with the right formal and informal institutions in place, PSCs in peacekeeping would work.⁹⁵⁷ The decision to use PSCs is best made by those who fully understand these advantages and disadvantages, have applied them to the situation at hand, and have the power to save lives through effective management of resources and provision of the best that the world can offer towards peace and security.

⁹⁵⁶ The UN as a learning organization is a concept that Page Fortna outlines in her book as an element fundamental to peacekeeping success. See Fortna, *Does Peacekeeping Work?*

⁹⁵⁷ Thanks to Dr. Nick Dew for his help with this last paragraph. His summary contained in his comments to me on my draft helped clarify my position; much of what he wrote is reproduced in this final paragraph.

In 2001, Secretary-General Kofi Annan told world leaders:

*The world's peoples will judge us by our ability to perform specific tasks...and of the service we provide. For the sake of all those whom we hope to save—whether from terrorism, from war, from poverty, from disease, or from environmental degradation—let us resolve that only the best is good enough. And let us equip ourselves so that, in future, the best is what we give.*⁹⁵⁸

⁹⁵⁸ Annan, “The Secretary-General Address to the General Assembly,” 1.

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APPENDIX. LIST OF INTERVIEWS

1. Doug Brooks president, International Stability Operations Association (ISOA), 26 October 2011 & 3 September 2012 at ISOA offices, Washington, DC.
2. Timothy Byrne, Program Manager, Center for Civil-Military Relations, Global Peace Operations Initiative; 16 July 2012, Naval Postgraduate School, Monterey, CA.
3. Patrick Cammaert, Major-General (Ret.), former force commander, Eastern Democratic Republic of the Congo; 10 May 2012 and 12 May 2012 at Center for Civil-Military Relations, Naval Postgraduate School, Monterey, CA.
4. James Cockayne, Co-Director, Center on Global Counter-Terrorism Cooperation; 18 June 2012, New York, NY.
5. Molly Dunigan, political scientist at RAND Corporation; conversation at ISOA Annual Summit, Washington, DC, 26 October 2011.
6. Lindy Heinecken, former researcher and Deputy Director of the Centre for Military Studies (CEMIS) at the South African Military Academy, currently Associate Professor of Sociology at Stellenbosch University; discussion following presentation at ISOA Annual Summit, Washington, DC, 26 October 2011.
7. David Isenberg, specialist in private security contracting; 10 July 2010 & 9 August 2011, Washington, DC.
8. LtCol Chris Jacobs, Royal Army, United Nations Department of Peacekeeping Operations (UNDPKO) Military Planning Service; 19 June 2012, New York, NY.
9. Mark Lumer, former Asst Deputy Asst Secretary of Army (Policy and Procurement), Iraq; seminar on Logistics Cooperation for Stability and Reconstruction (LCSR), Center for Stabilization and Economic Reconstruction (CSER) and Institute for Defense and Business (IDB) at Duke University; 28 October 2011, Durham, NC.
10. Åse Gilje Østensen, Researcher, The Geneva Centre for the Democratic Control of Armed Forces (DCAF); 7 July 2012, Skype, Monterey, CA to Geneva, Switzerland.
11. Deane Peter-Baker, Professor of Ethics; 10 August 2011 at Naval Academy, Annapolis, MD.
12. Lou Pinget, Program Coordinator, Global Policy Forum; 3 July 2012, telephone interview, Monterey, CA.

13. Joseph Schmitz, former Department of Defense IG and former COO Blackwater Worldwide; 7 June 2012, telephone interview, Monterey, CA.
14. Adam Smith, Researcher, International Peace Institute; 5 July 2012, New York, NY.
15. United Nations Department of Peacekeeping Operations (UNDPKO) Senior Official #1; 22 June 2012, United Nations Complex, New York, NY.
16. United Nations Department of Safety and Security (UNDSS) Senior Official #1 United Nations Complex; 22 June 2012, New York, NY.
17. United Nations Department of Safety and Security (UNDSS) Senior Official #2, United Nations Complex; 4 July 2012, New York, NY.
18. Jessica Vogel, Director, Programs and Operations, International Stability Operations Association (ISOA); 30 May 2012, Washington, DC.

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